United States Court of Appeals
for the Second Circuit

APPENDIX

77-6091

ORIGINAL WITH PROOF OF SERVICE

UNITED STATES COURT OF APPEALS

for the

SECOND CIRCUIT

UNITED STATES COURT OF APPEALS
FILED
FEB 22 1978
[illegible]
SECOND CIRCUIT

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff-Appellee,

vs.

E.L. AARON & CO., INC., LAWN-A-MAT CHEMICAL & EQUIPMENT CORP., EDWARD L. AARON, PETER E. AARON, NORMAN LAWRENCE SCHREIBER, DONALD DARWIN JACOBSON, DANIEL DORFMAN, FERNANDO ERAZO,

Defendants,

and

PETER E. AARON,

Defendant-Appellant.

ON APPEAL FROM AN ORDER OF THE UNITED STATES
DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK

JOINT APPENDIX
(Volume II of II -- Pages A-430 - A-827)

GUSRAE, GREENE & KAPLAN
Counsel for Defendant-Appellant
PETER E. AARON
67 Wall Street
New York, New York 10005
(212) 269-1400

Of Counsel
Gusrae, Greene & Kaplan
By David Greene and Martin H. Kaplan

John Lowy
Harvey L. Pitt, General Counsel
Paul Gonson, Associate General Counsel
Jacob H. Stillman, Principal Assistant General Counsel
Glynn L. Mays, Angela M. Desmond, Counsel for Plaintiff-Appellee
Securities and Exchange Commission, Washington, D.C. 20549

(6989)

COUNSEL PRESS, INC. 55 West 42nd Street, New York, N.Y. 10036 • (212) 391-6622

PAGINATION AS IN ORIGINAL COPY

INDEX TO APPENDIX

Page

Docket Entries i

Complaint. A-1

Aaron Answer A-15

Plaintiff's Motion for Preliminary Injunction A-30

Affidavit in Opposition to Plaintiff's Motion for Preliminary Injunction A-57

Transcript of Trial A-75

Plaintiff's Proposed Findings of Fact and Conclusions of Law, Para. 50-54 . . . . A-581

Deposition of Philip Shapiro PP. 6-21 and 48-49 . . . . A-583

Deposition of Donald Jacobson PP. 9-27, 31-37, 39-48, 68-78, 93-98 . . . . A-601

Deposition of Lawrence Firrencielo PP. 6-12 . . . . A-654

Deposition of Charles Silberman PP. 9-13 . . . . A-661

Deposition of Eliezer Strauss PP. 4-7 . . . . A-666

Deposition of Stanley Gordon PP. 4-23 and 40 . . . . A-670

Deposition of Jacob Kaplan PP. 4-12 . . . . A-691

Page

Defendant's Exhibit "D" for I.D. A-700

Defendant's Exhibit "F". A-701

Defendant's Exhibit "K" for I.D. A-702

Defendant's Exhibit "L" for I.D. A-733

Defendant's Exhibit "M" for I.D. A-735

Plaintiff's Exhibit "1". A-736

Plaintiff's Exhibit "2". A-737

Plaintiff's Exhibit "3". A-738

Plaintiff's Exhibit "10" A-739

Plaintiff's Exhibit "23" A-745

Plaintiff's Exhibit "24" A-746

Plaintiff's Exhibit "26" - PP. Attestation Page and Title Page 1-3, 21-24 . . . . A-749

Plaintiff's Exhibit "27" - PP. Attestation Page and Title Page 1-8, 2-5 of Financials A-763

Plaintiff's Exhibit "28" A-771

Plaintiff's Exhibit "29" A-775

Plaintiff's Exhibit "30" A-780

Page

Plaintiff's Exhibit "31" A-785

Plaintiff's Exhibit "32" A-791

Plaintiff's Exhibit "33" A-797

District Judge's Opinion A-800

Order of District Court A-823

Notice of Appeal A-827

1pm

jk:mg 1

AFTERNOON SESSION

2:15 p.m.

PETER E. AARON, resumed:

THE COURT: Proceed.

MR. HECHT: Your Honor, I believe the plaintiffs have concluded any questions of Mr. Aaron, and I will put him on in our case in the defense.

MR. MANDEL: We have no further questions.

THE COURT: All right.

(Witness excused)

MR. MANDEL: Your Honor, pursuant to your direction yesterday, the Commission has prepared summaries of the depositions that we wanted introduced.

We have discussed this matter with opposing counsel and we don't seem to be able to arrive at an agreed summary, although the summary --

THE COURT: You gentlemen have not been able to agree on anything. I was trying to get you to agree before on some of the facts. You couldn't even agree on some of the stipulations, even as to the question of whether or not Aaron was a New York corporation, with its principal offices located at 50 Broad Street. You couldn't even agree on that.

What is the matter with you gentlemen?

MR. MANDEL: Your Honor, I think we can agree on that.

THE COURT: I don't think there is any doubt about it, but you have not submitted to me any stipulation of agreed facts which is what I asked you to do and you can't even agree on that.

I'm going to have to go through each of these individually and ask you if there is any disagreement on that. That is a fine way to do it after I have asked you to get together ahead of time.

MR. HECHT: I did call the SEC last night and apparently at the time I called there was no one at that phone for that moment, and we couldn't get in touch with them.

I worked on parts of the case last night. And I got this this morning. I'm sure I can prepare mine over the weekend.

What we have done is summarize the portion of the testimony that they feel is relevant.

THE COURT: Do you have any dispute over the fact that their summary is an accurate summary of those portions of the depositions which they want to introduce in evidence?

MR. HECHT: Your Honor, I have not had a

chance to review it. I just got it this morning. We have been on trial since this morning.

THE COURT: Well, all right.

MR. MANDEL: Your Honor, if I might make a suggestion: If we could offer these summaries in evidence subject to written objections to come in from opposing counsel when he submits his summaries, perhaps that might be the easiest way.

THE COURT: I want to finish the case.

MR.MANDEL: This is our last item, your Honor.

THE COURT: All right.

So what are you offering?

MR. MANDEL: Well, we would like to mark and offer into evidence the summaries of the following depositions--

THE COURT: First of all, you want to offer the depositions. That is what you want to do?

MR.MANDEL: OK. We want to offer in the depositions of Philip Shapiro --

THE COURT: The entire deposition?

MR.MANDEL: Your Honor, as I say, we will be glad to offer just the summaries.

THE COURT: All right, or do you want to offer certain pages of the deposition?

MR.MANDEL: I'm not sure -- frankly, I don't understand. I can offer in certain pages or the summaries.

THE COURT: Are you going to stand here and read the entire deposition?

MR. MANDEL: I misunderstood. We had certain pages we were prepared to offer in.

THE COURT: What pages of the deposition do you want to introduce?

1/13

C v.
Aaron

1b

1 jksr

MR. MANDEL: On Philip Shapiro's deposition, that particular deposition we would offer the entire deposition, direct and cross.

With respect to the deposition of Stanley Gordon, an investor in Washington, we would offer in the following pages and lines:

Page 3, Line 1 to Page 9, Line 15.

Page 23, Line 2 through Line 14.

Page 36, Line 14 to Page 37, Line 9.

And Page 38, LIne 1 to Page 40, Line 10.

THE COURT: All right.

MR. MANDEL: With respect to Jacob Kaplan, it is a short deposition, and we would offer in the entire thing.

THE COURT: Is that K-a-p-l-a-n?

MR. MANDEL: That is correct.

With respect to Elizer Strauss, again, the entire deposition.

With respect to the deposition of Charles Silberman, an investor, again a short deposition; we would offer in the entire deposition.

With respect to the deposition of Lawrence Firrincieli, we would offer in Page 3, Line 24 through Page 21, Line 25 and Page 32, Line 11 through 25.

And lastly, with respect to the deposition of Donald Jacobson, we would offer in the following pages and lines:

Page 3, Line 1 --

THE COURT: Wait a minute now.

MR. HECHT: He may be here as a witness. He is done sitting shiva tomorrow and there is a possibility that he will be here as a witness. I know you wanted him. I have spoken to his counsel and there is a possibility, he will let me know tonight, his counsel.

THE COURT: You are putting it in anyway. Go ahead.

MR. MANDEL: Page 3, Line 1 to Page 9, Line 11.

Page 69, Line 20 to Page 70, Line 8.

Page 72, Line 18, to Page 73, Line 25.

Page 78, Lines 4 through 14.

And Page 86, Line 1 to Page 101, Line 24.

The only thing we propose to actually read into the record, your Honor, was one page from the Jacobson deposition and if your Honor please, I would read that in now.

THE COURT: All right.

3 jksr

MR. MANDEL: What I would read in commences at Page 100, Line 16:

"Q You said before that Peter Aaron told you that he wasn't a registered principal, is that correct?

"A That is correct.

"Q Do you recall anything he told you in that context?

"MR. GUSRAE: [Who was Mr. Jacobson's attorney]: I don't understand that question, I am sorry.

"MR. GLOBERMAN: [The SEC attorney:] Strike the question.

"Q During the conversation when Peter Aaron told you he wasn't a registered principal, do you remember anything else he told you?

"MR. GUSRAE: Regarding what?

"Q In that specific conversation, when he told you he wasn't a registered principal.

"MR. GUSRAE: He told you that on one occasion?

"THE WITNESS: He told me that on several occasions.

"Q On any one of those occasions do you remember anything else that he told you in that connection about not being a registered principal?

"MR. GUSRAE: That is too vague, and I really don't understand it.

"MR. GLOBERMAN: I will start the question again.

"Q Did he tell you why he wasn't a registered principal of E. L.Aaron & Company?

"A Yes.

"Q Why did he say he wasn't a registered principal?

"A He said that in the event that E. L. Aaron & Company should have SEC problems or violations he would not be affected and would be immediately able to set up another firm."

At this point, your Honor, plaintiff Commission rests.

THE COURT: All right.

1/13

EC v.
aron

1 jgsr

MR. HECHT: Your Honor, with respect to those particular depositions, I have no objection to the admission of the entire depositions of Mr. Shapiro, Mr. Kaplan, Mr. Strauss, Mr. Silberman. However, I feel, if I understand your instructions of yesterday, we should each put in a summary anyway, and that should be covered by our summaries.

As to Mr. Firrincieli's deposition, I have one question of the SEC.

Was this in your investigation?

MR. MANDEL: No. This was a deposition taken in the courtroom.

THE COURT: In this case.

MR. HECHT: I would move that the whole deposition , it is not that long, it was done as if it were on trial, and the exhibits which were furnished by the Commission in connection therewith also be made part of the record and moved into evidence.

THE COURT: You sort out what pages you want to put back in.

MR. HECHT: Okay. And I'll report to the Court at the close of our case.

THE COURT: Yes.

MR. HECHT: As far as Jacobson goes, it

depends. If he is called as a witness, then obviously we won't need to refer to his deposition. If he is not, I will furnish the Court --

THE COURT: I wonder why not. The Government has put his deposition in in this case. That's all they have done. They have a right to do that.

MR. HECHT: I will put in what we feel is the appropriate part of the close of our case.

THE COURT: All right.

MR. HECHT: Your Honor, if possible, I would like to know if I can get those summaries from the defendant's point of view in to the Court on Tuesday or Wednesday. I'm tied up also in the commodities option litigation.

THE COURT: I know. But we have a matter here for a preliminary and affirmative injunction. We ought to get it done right away.

MR. HECHT: I have had to work the last two weekends. Can I get them in on Monday?

THE COURT: Let's finish what we have here and see where we stand when we finish the case.

MR. MANDEL: Would it be a little easier for the Court, more convenient, if we mark the depositions as exhibits? Or should we just leave it as it is.

3 jgsr

THE COURT: [illegible]ust leave it as it is. Have you got the depositions?

MR. MANDEL: Yes.

THE COURT: Just submit them.

MR. HECHT: As to the depositions that the plaintiff has submitted, I would like to reserve my rights in the summary to object to the relevance, and to the same extent that there are objections in those depositions by me at the time the testimony was taken I wish to preserve those.

THE COURT: Was that the stipulation that was entered into at the time?

MR. MANDEL: Yes.

THE COURT: Okay.

[Pause.]

MR. HECHT: Your Honor, the defendant is ready to proceed.

THE COURT: All right.

MR. HECHT: Our first witness is Mr. Samuel Jacobs.

SAMUEL JACOBS, called as a witness by the defendant, being first duly sworn, testified as follows:

*** DIRECT EXAMINATION

BY MR. HECHT:

Q Mr. Jacobs, where do you presently reside?

A In the Bronx.

Q At one time were you employed at E. L. Aaron & Company?

A Yes.

Q Was that full time or part time or both?

A Both.

Q Would you describe to the Court how you were introduced to E. L. Aaron or found out about E. L. Aaron & Co.?

A I was introduced to Ed Aaron by Pete Aaron.

Q And how did you know Peter Aaron?

A He worked for me.

Q What kind of work?

A Music. He was a singer.

Q And when you were introduced to Mr. Ed Aaron, how were you introduced to him and what did he say to you and what did you say to him?

THE COURT: Can you give us the time, the date?

THE WITNESS: This was in 1972.

THE COURT: 1972?

THE WITNESS: That's right.

THE COURT: What was the conversation?

THE WITNESS: He asked me if I would like to be a stockbroker, and I said no.

And, well, he asked me again, this was maybe three, four months later, would I come in and do some clerical work.

So he took me to meet his father, and I guess you could say he introduced me ; it was very casual. And I started working for Mr. Aaron as a clerk in the back room.

And, so, later I went to school and I became a stock broker.

Q And when you became a broker, were you a full time broker?

A Yes.

Q Do you recall when you became a full time broker?

A It was in, I think, June of '73, approximately.

Q And throughout this period you were working for E. L. Aaron & Co.?

A Yes.

Q And for how long did you remain a full time broker?

A Between eight months and a year.

Q And was this at the company's office at 50 Broad Street?

A Yes.

Q And while you were a full time broker, did you spend five days a week at the office?

A Yes.

Q And thereafter what happened? Did you become a part time broker?

A I became a part time broker.

Q And for how long were you a part time broker?

A About a year and a half.

Q And at all those times were you employed at E. L. Aaron &Co.?

A Yes.

Q And what happened after you left E. L. Aaron & Co.? Did there come a time when you left E. L . Aaron & Co.?

A Yes.

Q And when was that?

A That was around September of '75.

Q Why did you leave?

A I became an instructor at New York City Community College.

Q An instructor in music?

A Yes.

Q And while you were there, did you ever meet a gentleman named Larry Powers?

A Larry Powers? No.

Q Did you ever see his face?

A No.

Q Did you ever meet anyone named Larry Powers?

A No.

Q And would you describe who, in your opinion, ran E. L. Aaron & Co.?

A Ed Aaron.

Q Now, who hired you?

A Ed Aaron.

Q And who fixed your salary?

A Ed Aaron.

Q As a registered representative, did you discuss with anyone else of the company stocks that you should recommend to your customers?

A Yes.

Q Do you recall who you discussed that with at the company?

A Oh, I would speak with Ed Vogel, Ed Aaron, and on occasion Pete Aaron.

Q Do you know who the president of E. L. Aaron & Co. was?

A Ed Aaron.

Q Did Peter help his father?

MR. SCHIEREN: Objection to the form.

THE COURT: Yes. Sustained as to form.

Q Based on your observations while you were employed by E. L. Aaron & Co., who would you say ran E. L. Aaron & Co.?

MR. SCHIEREN: Objection, your Honor. Asked and answered.

THE COURT: Yes.

MR. HECHT: I have no further questions.

MR. SCHIEREN: I just have a few questions, your Honor.

*** CROSS-EXAMINATION

BY MR. SCHIEREN:

Q Mr. Jacobs, during what period of time were you a part time employee of E. L. Aaron & Company?

A From about NOvember of 1974 until about September of '75, approximately.

Q During this period of time, when were you at the offices of E. L. Aaron & Company?

A When?

Q What time of the day?

A Oh, it varied, because I would come in and out. I had about four clients, and I handled their accounts for them, when they wanted to change --

Q How many hours a week were you in the offices of E. L. Aaron & Company during that period of time?

A You mean an average, or specifically?

Q Approximately.

A Oh, I wasn't in there very much. I would come in for maybe an hour or two hours.

THE COURT: Each day?

THE WITNESS: No. Maybe four hours a week.

THE COURT: During that entire period of time, four hours a week?

THE WITNESS: Approximately.

THE COURT: Approximately.

MR. SCHIEREN: I have no further questions,

MR. HECHT: I have no further questions.

THE COURT: You may step down.

[Witness excused.]

MR. HECHT: Your Honor, our next witness is Edward Aaron.

EDWARD L. AARON, called as a witness by the defendants, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. HECHT:

Q Mr. Aaron, where do you presently reside?

A 51 Plymouth Drive, Willets Woods, Scarsdale, New York.

Q And where are you presently employed?

A 67 Wall Street, Justin Consultants.

Q And is that business engaged in the brokerage business?

A Not necessarily, no.

Q And at the present time are you subject to a 90-day suspension by the NASD?

A I believe by the SEC.

Q By the SEC?

A That's right.

Q And you were also named as a defendant in this case, weren't you, at one time?

A That's right.

Q And did you consent without admitting or denying to an injunction?

A After I ran out of money, I consented.

Q By the way, how old are you now?

A Next month I will be 69.

Q When was E. L. Aaron & Co. formed?

A 1946.

Q And at that time were you the sole principal in the company?

A My wife and myself. I was the sole principal. My wife was a nominal partner.

Q And do you remember when Peter came to work for the firm?

A I sure do.

Q When?

A When he was about 15 or 16 years old.

Q And what kind of work did he do originally?

A Everything including picking up papers. In other words, he was trying to find out what made his father's firm tick.

Q And from 1946 until E. L. Aaron & Co. was put out of business, were you the president of the company?

A I was.

Q Were you a director of the company?

A It was originally a partnership. My wife passed away and it was made a corporation, and I was the sole stockholder or whatever you would call it.

Q And you were also an officer of the corporation?

A That's right. I was the president.

Q And were you also a registered principal of the corporation?

A That's right. Under the grandfather clause, I believe.

Q Would you describe to the Court what a registered principal is?

A A registered principal is the one who owns the company and who is supposed to know everything that is happening or try to know everything that is happening out of his outfit and to pass on and make sure that all the rules, which are a good many, are attended to, period.

Q Is the registered principal a designation of the NASD or the SEC?

A A combination, I think, of both.

Q And do you have to file a special form with any governmental or any agency?

A The SEC and, if you are a member of the NASD, the NASD.

Q And was E. L. Aaron & Co. a member of the NASD?

A They were.

Q After Peter came to the company and after his initial duties, do you recall what he did, just generally, in the next 10 or 12 years, up through 1973?

A Let's put it this way: I can name any number of things. But he grew up in the business. In other words, whatever was around, he has an inquisitive mind and he watched and listened and he would see if he could help me in any way. I am what you could call, always have been, a one-man proposition, as far as business was concerned.

Q And did you ever have any other officers at E. L. Aaron & Co. after it was incorporated by yourself other than yourself?

A We had an office --

Q No. Officers.

A Officers? No.

Q You were the sole officer?

A That's right.

Q During that period of time did you run the firm, from 1974 through the closing up of E. L. Aaron, I guess it was -- was it this year?

A Yes.

Q Was it very recently?

A Four months, five months.

Q From 1974 until E. L. Aaron & Co. closed up, who would you say ran the company?

A From the day it started, I ran it.

MR. HECHT: I have no further questions.

CROSS-EXAMINATION

BY MR. MANDEL:

Q Mr. Aaron, from January 1, 1974 through November of 1974, what is the most number of registered reps that E. L. Aaron & Co. had at any single time?

A I'd say approximately 25 full time and about 25 part time, in that neighborhood.

Q What about 1973?

A Pardon me?

Q What about 1973?

A 1973? Very much less.

Q How much less?

A I would assume about ten.

Q In 1972?

A I'm not a statistician. I don't know the answer.

Q If you can recall?

A I don't want to put down figures and then you would say "you said this and that." All I know is I don't remember.

THE COURT: What is your best recollection at the moment?

THE WITNESS: I'd say ten.

Q And from 1970 on through 1974, did you ever have more than ten reps at any given time?

A Not that I know of.

Q Mr. Aaron, do you recall testifying before the Securities and Exchange Commission during the investigation leading to the commencement of this action on October 2, 1975?

A You want the figures there and the dates? My memory hasn't gone back. If you tell me it is, it is. I did testify, yes. I don't know the dates.

Q Do you recall being asked the following question and giving the following answer:

"Q Mr. Aaron, what is your position at E. L. Aaron & Co.?

"A I refuse to answer on the ground that it would be incriminating to myself."

A Well, let me put it this way so you understand it. You are sitting on this side-- and that side --

Q Could you answer my question?

A I would like to give an answer.

Could I give an answer?

THE COURT: Would you stipulate that that answer was given to that question, Mr. Hecht?

MR. HECHT: Yes, your Honor, at that time.

THE COURT: All right.

Q And, Mr. Aaron, do you recall being asked this question and giving this answer:

"Q Mr. Aaron, what is the structure of E. L. Aaron & Co.?

"A I refuse to answer, Fifth Amendment."

Do you recall that?

A No, I don't.

THE COURT: Do you stipulate, Mr. Hecht, that that answer was given?

MR. HECHT: Yes.

MR. MANDEL: No further questions.

THE COURT: You may step down.

MR. HECHT: One question.

REDIRECT EXAMINATION

BY MR. HECHT:

Q At the time you attended that deposition, were you represented by counsel?

A I believe so, yes.

Q And were you aware that your counsel also represented a number of other parties that were named in this suit?

A Yes.

MR. HECHT: I have no further questions.

THE COURT: You may step down.

(Witness excused)

(Continued on next page)

MR. HECHT: The defendant's next witness, your Honor, is Norman Schreiber.

NORMAN SCHREIBER, called as a witness by the defendants, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. HECHT:

Q Mr. Schreiber, where is you present residence?

A Massapequa, Long Island.

Q Do you recall when you became employed by E. L. Aaron & Co.?

A Yes, it was, I believe, the month of September of 1974.

Q And prior to that date would you describe what you did for the last ten years to the Court, what your occupation was?

A 98% in the securities business.

Q And were you ever a registered principal of another brokerage house?

A Yes.

Q Were you ever an officer of another brokerage house?

A Isn't that the same thing? Yes. I'm sorry. Yes, I was.

Q Now, how did you become introduced to E. L. Aaron & Co., if you can recall?

A Through a friend of mine named Marvin Duke.

Q Did he set up a meeting or something like that with the company?

A Yes.

Q And did you have a meeting with the company?

A Yes.

Q And do you recall who you spoke to at that meeting?

A Yes.

Q What were their names?

A Ed Aaron and Peter Aaron.

Q Do you recall where the meeting was?

A At their office on 50 Broadway, I believe.

Q OK.

Do you recall when this first meeting was?

A In September 1974.

Q And in what capacity were you originally employed at E. L. Aaron & Co.?

A Registered rep.

Q At which office?

A At that office, 50 Broadway.

Q That was their main office?

A That was their main office.

Q And for how long were you employed there?

A About two months.

Q And then did there come a time that E. L. Aaron & Co. opened up a main office?

A That was their main office.

Q Excuse me; another office?

A Yes.

Q Do you know where that office was?

A Yes, Roslyn Heights, Long Island.

Q Do you know when that office was opened up, if you can remember?

A Yes. November of 1974, two months later.

Q And who was the registered principal of that office for E. L. Aaron & Co.?

A I was.

Q Did you have to take a test to become a registered principal?

A No. I had been previously at a previous firm and it was a carryover.

Q And in this Long Island office, do you know who made the arrangements for setting up the office?

A My then associate Donald Jacobson.

Q I mean by "made the arrangements," who found the office, who negotiated the rent, things like that?

A He found the office and negotiated the rent.

Q And was Mr. Jacobson your partner?

A Yes.

Q And in effect you split all commissions and all compensation?

A Yes.

Q And as the registered principal, it was your responsibility for managing that particular office?

A Yes.

Q What was your basis of compensation at E. L. Aaron & Co.?

A Commission basis.

Q Did you ever receive an expense allowance?

A Towards the end of my employment for a very short period of time.

Q When you say a commission basis, does this also cover a positioning of stock, particular security?

A No. The firm kept the inventory. Portions were subtracted at the end of each month, according to our long and short positions.

Q And was LAM one of the stocks that you positioned, you and Mr. Jacobson positioned?

A That is Lawn-A-Mat. Yes.

Q How did you come about meeting Lawn-A-Mat?

MR. SCHIFREN: Objection to the form of the question.

Q How did Lawn-A-Mat come to your attention?

A A very good friend of mine socially, who lives on Long Island with me, owns a franchise with the company, and had told me about them.

Q And were you aware of the company before you spoke to your friend?

A Only that he was a dealer, so I was aware of the company, and they advertise a lot. It is something that you know that you just see in your daily life.

Q What are they advertised as?

A A lawn service and they seed your lawns. They service and seed, they take care of your lawns predominantly.

Q After you talked with your friend, were you introduced to anyone at the company?

A Yes. I was introduced to the then-president, Dan Dorfman.

Q Do you recall when you were introduced to Mr. Dorfman?

A About the following month after my initial employ.

Q Do you recall where you met him?

A I know I met him at his headquarters in Mineola but I don't remember if that was the first time I met him, if it was there. I don't remember exactly from the introduction whether I met him there or somewhere else the first time.

Q Do you recall what was discussed in your first meeting with Mr. Dorfman?

A Well, he gave me a little background on the company, and told me they had been in business a lot of years. I'm trying to remember when he told me they started, some time in the fifties, I believe, and he founded the company and he was the one who actually invented the seeding machine that did your lawn, aerated it and seeded it, and told me they were the largest company of its kind in the country and a lot of good things about the company.

Q And what happened next?

A He talked to me about, you know, if I had any interest in the company per se stockwise because it was a public company, and I had asked him whereabouts it was selling. He told me it was over the counter at, whatever the price was at that time; it was a low price, and I was interested in low-priced situations that had potential.

MR. HECHT: Your Honor, if the Court would excuse me, I'm looking for a particular exhibit right now.

(Pause)

Q Do you recall any subsequent meetings with Mr. Dorfman after this first meeting either at the company's premises or the premises of E. L. Aaron or any other place?

A Yes, we met some, oh, maybe anywhere from four to six times after that.

Q Do you recall a meeting in the latter part of 1974 at the offices of E. L. Aaron & Co.?

A Yes.

Q Do you recall who was present at that meeting?

A Yes. Mr. Dorfman, the two Aarons, and myself, and I believe Marvin Duke was there for a few fleeting moments.

Q And do you recall what Mr. Dorfman said at that meeting?

A Yes. He talked about a car he intended to build and produce with Lawn-A-Mat, and he then had pictures with him of the car, colored photographs, I guess they were, 8 x 10s, or some, you know, nice-looking size, and it looked very promising and we spoke about it, I guess maybe, you know. 20 minutes to a half hour, whatever, in this little room in a meeting.

Q Do you recall him showing pictures of the car to Peter Aaron?

A Yes, we all looked at them. They were distributed to Edward and Peter.

Q And did he describe anything, how Lawn-A-Mat was going to produce this car at that meeting, if you can recall?

A He told us there was a plant somewhere in the Middle West, in Joplin, I think it was. In fact, he had a picture of a tremendous machine that he said was the only one of its kind, built by IBM, and he had a picture of this, showing this machine molding plastic bodies.

Q Did he bring this picture with him to this particular meeting in New York?

A I believe so, but I am not 100% certain. If I didn't see it then I saw it at a subsequent time, but I believe it was all-encompassed in one, you know, one group of pictures he had.

Q Now, prior to January 1 of 1975, do you recall meeting with anyone else affiliated with Lawn-A-Mat, besides Dan Dorfman?

A Yes, I met Carl Krantz, who Mr. Dorfman introduced me to. I believe he was their accountant or CPA, or something in that area at the time. And I met him at the Lawn-A-Mat Company, and then at some later date, I don't recall exactly when, in a reasonable period of time, I met him with Mr. Jacobson at a little club restaurant somewhere near our office in Roslyn, I believe.

Q Prior to January 1 of 1975, did you obtain a stockholders list from Lawn-A-Mat?

A What was the date?

Q Prior to January 1, 1975?

A Yes.

Q Whom did you obtain it from?

A Either Mr. Dorfman told Mr. Krantz to give it to me or vice versa, but it was one of the two gentlemen gave me a list.

Q OK.

And did you tell them why you wanted the list?

A They had made mention that their stockholders, Mr. Dorfman had said their stockholders had not been contacted really in any way,shape or form, they hadn't had a report out for some time, and he thought it might be a good idea if their stockholders, you know, were told of what the company is doing,and I thought it was a good idea at the same time, and that is more or less what the discussion centered around.

Q And thereafter did you obtain a list of dealers and distributors from Lawn-A-Mat?

A Yes. That was offered to me. I didn't even know it existed.

Q And who offered it to you?

A Erazo and Lane. I don't know which one physically gave it to me, or if they both or either offered it to me, but it came from Fred Erazo and his secretary, Lane.

Q Do you recall what, if anything, they stated to you when they gave you this list?

MR. SCHIEREN: Your Honor, I object to this testimony, anything that Mr. Erazo said to him or Miss Lane as totally hearsay.

Second of all, I don't think it is relevant.

THE COURT: I will permit it as far as Erazo is concerned.

A I do remember their making mention that up until that point, with the stockholders list, they thought a good job had been done, and that is why the shareholders list, I mean -- I'm sorry, the dealers list was offered at that time. They thought it would be helpful.

MR. HECHT: Your Honor, at this time I am showing the witness a copy of Defendant's Exhibit D which has already been admitted for purposes of identification only, and I ask the witness to review that and if he can identify that document.

A Yes. Nina Lane had told me she was making out a letter and sending it to the dealers, and she sent me a copy, telling me she thought, you know, this would be helpful in, you know, talking to the people and bringing about further business.

MR. HECHT: Your Honor, at this time I'd like to move for admission of that into evidence.

MR. SCHIEREN: Your Honor, I believe the witness has testified about a conversation with Miss Lane in connection with this document, and, your Honor, I think previously you ruled that you would allow this testimony in in connection with Mr. Erazo.

THE COURT: That is right.

MR. SCHIEREN: On that basis I would object to the admission of this document.

THE COURT: Yes. Sustained.

MR. HECHT: Your Honor, can I say on the contrary, this was something that was sent out under Mr. Erazo's letterhead. I think it's been established that Miss Lane was either his secretary or executive assistant, and this is obviously something that was sent out and given to E. L. Aaron & Co.

MR. SCHIEREN: I don't think it is so obvious and Mr. Erazo denies having prepared it.

MR. HECHT: He didn't deny he prepared it, I don't think.

THE COURT: No. I adhere to my ruling.

(continued on next page)

1/13

SEC v.
Aaron

3B

Q Were you subsequently asked to furnish a receipt of the dealers-distributors list by anyone at Lawn-A-Mat?

A What do you mean be receipt?

Q Did they want you to sign something that you had gotten this list?

A I think I did. I believe I did, but I don't 100% remember.

MR. HECHT: Let the record reflect that I am handing the witness Defendant's Exhibit No. E, which has been marked for identification.

THE WITNESS: Yes, that does refresh my memory somewhat.

Q Does that look like your signature on the bottom?

A Yes, that is my signature.

Q And did you, in fact, deliver that to Lawn-A-Mat the original?

A Yes. Not deliver it, but I signed it on the premises there when I was given the list.

MR. HECHT: Your Honor, at this time --

THE COURT: Who did you give it to?

THE WITNESS: Either Erazo or Lane. I couldn't swear to it. Maybe both. They may both been present. It's about over two years ago, sir. It's hard for me to exactly remember.

MR. HECHT: Your Honor, at this time defendant moves for admission of its exhibit marked for identification as E.

MR. SCHIEREN: I would like to know for what purpose you are offering this document.

MR. HECHT: Well, I think it is relevant as to (a) the credibility of Mr. Erazo, (b) since a number of your witnesses are dealers and distributors, I think it should be known exactly how E. L. Aaron obtained it, under what circumstances they obtained it.

MR. SCHIEREN: I think the latter is totally irrelevant and I think Mr. Erazo has denied any relationship to this document and the witness can't establish whether he gave it to Mr. Erazo or Miss Lane, so I object.

MR. HECHT: He established that he gave me either one or the other.

MR. SCHIEREN: He said he couldn' recall.

THE COURT: He said he couldn't recall which one he gave it to.

MR. HECHT: Or both.

THE COURT: He said he can't recall.

Q Did you give it to someone at Lawn-A-Mat?

A Absolutely.

MR. SCHIEREN: I still object.

THE COURT: Yes, sustained.

Q Did you have a copy of the dealers and distributors list?

A Yes.

MR. SCHIEREN: It has been answered already, your Honor.

THE COURT: Yes.

Q Prior to January 1 of 1975 did you have any discussions with the personnel at Lawn-A-Mat with respect to the prior operating history of Lawn-A-Mat?

A Did we talk about that before?

Q The prior earnings history, how it was making money or losing money?

A Yes, I had a conversation with Krantz and Dorfman on a few occasions.

Q Okay. And what did they say to you with respect to the prior financial results of Lawn-A-Mat for the prior year?

MR.SCHIEREN: Can you set a time, please?

MR. HECHT: 1973. I think we said prior to January 1, 1975.

THE COURT: He said he had some conversation with him.

When did you talk with Mr. Krantz with respect to the prior earnings history of the company?

THE WITNESS: I believe the main time we spoke, and Mr. Jacobson was present, was in this club in Roslyn, and that would be somewhere around roughly between December and January '74 and 5, in that time element, and I don't recall that we discussed '73, because it was too far back, but he had made mention of '74, which was the year they had just closed out, and that they expected at that time to have somewhere about a breakeven.

Q Did you have any discussions with anyone prior to January of 1975 relating to Lawn-A-Mat setting up its own chemical production facility or chemical blending facility?

A No. Erazo himself had told me he had something of a background in something like that, and he had some thoughts of doing something, but nothing specific, and I never really gave it much thought.

Q Now, between November 1974, when you opened the MIneola office of E. L. Aaron & Co., until August 1975, did you visit the Plainview facility?

A Yes.

Q Approximately how many times?

A Approximately three.

Q Three. Do you recall when you first visited that premises?

A Early '75.

Q Do you recall who you met at the premises?

A I met Dan Dorfman and a chap named Bernie Discount.

Q And when you were there during that first visit what did you see at that facility?

A I was given a tour of the plant and all the different things they were making.

What does stick out in my memory is that they were making a motorcycle on the premises which was Black Beauty or something or other. I know I was interested in even buying one for my son, and it was a spacious place. They were doing some Government work. They were making metal cabinets for submarines. It was the varied line of businesses, and at that time they had also showed me the starting of the model car that they intended to build.

There was an unfinished prototype on the floor which I then saw at a later date, you know, far more progressed. But at that time, somewhere in the December - January area, upon my first visit, I virtually saw the whole plant, you know, a complete tour around it.

Q When you said you were given a complete tour, who gave you that complete tour, if you can recall?

A Dorfman and I think Discount started with us, but then got sidetracked from a call or something and just was with us a few moments.

Q Do you recall what Mr. Dorfman said about any of these things you saw at the plant on your first visit?

A I don't exactly know what you mean by what he said.

Q What did he say to you in connection with anything during that visit that you can recall?

A Well, as I say, he discussed each product and things.

THE COURT: What did he say? What was the conversation?

THE WITNESS: It is hard to remember words from over two years ago.

THE COURT: Then the substance. If you cannot remember the exact words, then the substance.

THE WITNESS: As I say, he would go along, as we got to a specific area, he would say this is the product and this is what they are doing and this is how they are doing it. There was a lot of sheet metal --

THE COURT: What specifically?

THE WITNESS: As I was saying earlier, they had a group of type of cabinets they were making for a submarine, and there was a lot of sheet metal and welding involved and then --

THE COURT: What did he say with respect to that?

THE WITNESS: He said it was kind of secretive and , you know, he could just say so much about it, and then there was something else they were building in the sheet metal area, but I don't really remember what that discussion was about.

The motorcycle was the most that I had in my mind at the time because it just looked very exciting.

THE COURT: What did he say about the motorcycles?

THE WITNESS: He said they are producing them here, they are selling them, the demand is tremendous. They were motor bikes, I should say, and he said, you don't need a license for them, but they are not actually permitted to ride in the streets. You have to go in certain areas. But they are very big out west and they have motor bike races, and we just had a lot of conversation about the bike itself. I can't recall all of it exactly.

THE COURT: All right, what else?

THE WITNESS: And then we got to the point with the car, and he talked about that, saying this was, you know, from scratch that he was building and that he had been working on this a long time and had some blueprints there which meant nothing to me because I couldn't understand them.

THE COURT: What did he say?

THE WITNESS: He would show me a blueprint, but I couldn't read it and I couldn't understand it.

THE COURT: What did he say?

THE WITNESS: From these prints they are building the car and there was a car there, sitting, as I said, on wheels, not fully assembled. I saw it at a later date, just about completed, but at that point it was partially in parts and, let's see, what else -- just offhand I can't remember any more.

Q Okay. Now, you said you visited the facilities on a number of occasions. Would you describe to the Court when you can recall your next visit to the premises and how you met there?

A Well, another visit which maybe was a month or two later was with Mr. Dorfman, Mr. Jacobson, myself and a chap from a public relations firm. I absolutely don't remember his name or the name of the firm. But he was called there by Mr. Dorfman because at the time he felt he wanted to publicize the car and put public relations on it. And he invited us, us meaning Mr. Jacobson and myself, to come and listen to this presentation, and he talked, after giving us another tour and showing the car to the public relations chap, went back into his office and he spoke mostly to him about different types of public relations and what he could do and what the other one can do and --

Q Do you recall what they said about the car as far as its characteristics?

A Well, Dorfman had told him it was going to run not on gasoline but on , I believe, electric, and it would get, oh, a lot of miles per gallon, I think the number was 40 or 50, and it would be very economical, and it would cost -- the initial cost was, I think, somewhere in the 2,000 to $2,500 price category, the purchase, and they would have different models, and there was one, I think they were using a transmission which had something to do with a Crosley. I remember the name Crosley in there. It may not have been pertaining to transmission, but it was something from a Crosley car.

As I say, this is all his conversation with the public relations chap.

Q Were there any statements made with respect to how the production of this automobile was to be financed?

A I don't believe so because Mr. Dorfman said he had connections for the financing, he had just come back from a trip abroad and, you know, that was his own business.

Q And was there anything said at that meeting with respect to a tractor that you can recall?

A No, I don't recall.

Q You made other visits to the premises at Plainview, am I right?

A Yes, but I don't think it had anything to do with this business per se. I think I once went there to talk to Mr. Discount about purchasing a motor bike --

MR. SCHEIREN: Your Honor, I object to the relevancy of this.

THE COURT: Yes.

MR. HECHT: I just want to know what the visit was about.

Q Now, Mr. Jacobson was your partner, right?

A Yes.

Q Would you describe to the Court the arrangement between you and Mr. Jacobson as to spending time in the office and outside the office?

A Yes. I ran the office per se and he was outside, meeting people and bringing in customers and talking to to other companies and business of that nature.

Q And did you have discussions with Mr. Jacobson or did you know if he visited the premises at Plainview?

A Yes, he did. He was there, as I mentioned, on occasion with me, and he went there, I believe, quite a few times after that on his own.

Q Now, with respect to this automobile, do you recall if you made any statements with respect to this automobile to potential purchasers of the common stock of Lawn-A-Mat?

A Yes.

Q And do you recall what those statements were?

A That they intended to build a car, and told him the particulars of it, you know, that it would cost so much and get so many miles p[illegible] gallon and that it was in the near future.

Q Do you recall when you first started discussing this with the potential purchasers of the common stock?

A I would say again it was in that December - January area.

Q And who was the source of your information?

A Mr. Dorfman.

Q Were there any other people who you discussed the car with at the company that you can recall?

A Well, only Mr. Discount. But he wasn't associated with the company.

Q At the time you made those statements with respect to the car to customers, did you believe them to be true?

A Oh, emphatically.

MR. SCHIEREN: Objection, your Honor.

THE COURT: It is immaterial, isn't it?

MR. HECHT: Your Honor, I think intent is a test under Ernst & Ernst v. Hochfelder and then in the Bausch & Lomb case down here.

THE COURT: He is not involved in this. He has already agreed to an affirmative injunction.

MR. HECHT: Right. But their complaint alleges that the only potential liability of Peter

Aaron is as an aider and abetter.

MR. HECHT: And he consented, without admitting or denying it. And if there was no primary violation, then how can he be enjoined from aiding and abetting something that wasn't a violation of 10b-5?

THE COURT: All right.

MR. HECHT: Would you please read the last question?

[Record read.]

BY MR. HECHT:

Q Did you ever discuss the past, present or projected earnings of Lawn-A-Mat with any customers or potential customers for the purchase of the stock?

A Yes.

Q And do you recall what you said to such persons in respect to the past, present or future earnings?

A That the earnings of the company in '74 were approximately a break-even, they intended to make money, in '75, and they were expecting to have, you know, a profitable year in '76.

Q And what was the basis for those statements?

A Their business -- their Lawn-A-Mat business per se had been picking up and growing; they had, I think, opened additional franchises; and, you know, this was supposedly at the peak.

And then the car, which, from the projections, I was told would bring additional income into the company.

Q And who did you speak to in the company with respect to these earnings?

A Mr. Dorfman and Mr. Krantz, who had given me at our meeting, you know, expectations of what the company was going to do. And in fact Mr. ERazo, upon a meeting, when -- not long after he joined the company, had laid out a format on a chalk board for me of expectations that he expected to do with the company.

Q Do you recall ever discussing Majestic Seed with any customer?

A No, not with the customer.

Q Who do you recall discussing it with?

A Very brief conversation with Don Jacobson. He had spoken to Dorfman and he had -- I believe it was Dorfman, and he had heard something about Majestic Seed and mentioned it to me, and I didn't know much about it.

MR. SCHIEREN: Objection, your Honor. Irrelevant.

THE COURT: Yes, Sustained.

Q Do you recall ever calling Harriet Maniatis at Lawn-A-Mat and discussing Majestic Seed?

A Would you know where she resides? I remember that name, but -- I remember the last name. I don't remember the first name. What city is she in? I don't even know.

Q Somewhere on Long Island, in the New York Metropolitan area.

A No. I remember the name Maniatis. I do not remember the name Harriet. I don't remember any conversation.

Q Could you have spoken to Mr. Maniatis, who is a franchisee?

A It is possible. Or it may have been my associate.

Q Did you ever discuss Rainbird or Rainbird Sprinkler with any customer?

A I'm sorry. That previous question you asked me, what was Majestic Seed --

Q Yes?

A -- I confused that with this other situation.

Q Okay. What is your understanding of Majestic Seed?

A I apologize. Majestic Seed I believe was a company that Lawn-A-Mat either owned or controlled. It was Rainbird that I had heard something about from Mr. Jacobson and knew nothing of and never mentioned it to a person.

Q Okay. How about Majestic Seed?

A Majestic Seed, as I say, I believed, was either owned or operated, or both, by Lawn-A-Mat.

Q And what was the basis of your belief?

A I recall somebody mentioning it to me or telling me. I don't remember who or when.

Q Did you discuss that with many persons or just a few persons, Majestic Seed ?

A Just a few, because it wasn't that relevant, it wasn't that important. It was just a small item.

MR. HECHT: Your Honor, can we take a two-minute break? My associate is down here and I have to sign some papers to be rushed up to the Second Circuit. Only I can sign those papers.

THE COURT: All right.

[Recess.]

BY MR. HECHT:

Q Did there come a time when you became aware of the complaints with respect to your activities or Mr. Jacobson's activities in connection with the

Lawn-A-Mat common stock?

A Yes.

Q When did you first become aware of any complaints?

A I think the first time was when Nina Lane called me and told me she had somebody call up who was a Lawn-A-Mat stockholder who I had spoken to and they had -- she had -- they had asked her if Lawn-A-Mat was building a car, because I had made mention of that, and she called me to verify that, and I did.

Q And do you recall what you said to her?

A I said to her, "yes, I was told they are building a car, and please call the president and verify it."

Q At that time, do you recall who the president of Lawn-A-Mat was?

A That's confusing, because Dorfman was the president for a while and then Erazo became the president. But I don't know what period that took place, actually. So I'm sorry. If I refer to the president, I mean Dorfman. If he was then not the president then I still mean Dorfman.

Q Did you call Dan Dorfman as a result of this call?

A I don't believe initially I did. I know I did at a later date, but I don't think from that very first call I did.

Q Did you receive another call from Miss Lane subsequent to that?

A Yes. A similar conversation: You know, "Why are you telling people about a car ?"

I said, "I was told there is a car, and," you know, "you call Dorfman and I'll call him and straighten it out."

And I did, and he said, "Don't worry about it. I'll take care of it. Just go on doing what you are doing."

THE COURT: Did he tell you whether they were building a car or not?

THE WITNESS: Yes. He emphatically told me they were. As I said, I had seen pictures of it. I had seen the car --

THE COURT: The question is, did Mr. Dorfman tell you they were building a car?

THE WITNESS: Yes.

Q Did you receive any other calls from Nina Lane on this subject, if you can recall?

A I think I had two or three phone calls with her on the same basis. I don't remember whether it was two, three; it may even have been four, I really don't remember. But they were almost identical in scope.

Q Based on those phone calls, did you call anyone at the main office on E. L. Aaron & Co.?

A I don't believe I did.

Q Did you receive any phone calls from Milton Kean relating to customer or dealer franchisee complaints?

A Yes. I got one phone call from him on the same basis, with the car, and I told him to please call Mr. Dorfman and straighten this out because it is becoming annoying.

THE COURT: Did he tell you that they were not building a car?

Q What did Mr. Kean say to you?

A He did. I don't remember if it was at that point, but he did at some point tell me they were not building a car.

And I said, "Mr. Dorfman has emphatically told me they are building a car and I wish this would please get results."

And then things go on, you know, for another three-year, four, five weeks, whatever, until a similar thing would pop up.

Q Okay. During the beginning of 1975, did you ever receive any calls from Pete Aaron or Ed Aaron with respect to Lawn-A-Mat and alleged complaints?

A No. I believe my associate did.

Q Mr. Jacobson?

A Yes. I don't recall that they called me directly. I believe they may have spoken to Don Jacobson about it, because he eventually told me about it.

Q Do you recall what Don told you about it?

MR. SCHIEREN: Objection, your Honor.

THE COURT: Yes. Sustained.

Q After Mr. Kean called you, do you recall a meeting at Mr. Kean's office?

A There was a meeting. But it was, I believe, sometime after.

Q Right. After he called. That's what I said.

Do you recall when that meeting was? Can you recall the date, if possible?

A I can guess. Just somewhere between the Spring and the summer of '75. I really don't even know what month it was.

Q Do you know where the meeting was?

A Yes. In Mr. Kean's office. I believe it was on 42nd Street.

Q And do you know who was present at the meeting?

A Yes. Mr. Dorfman, Mr. Erazo, Mr. Kean, Mr. Jacobson and myself.

Q And do you recall what the various persons in attendance at that meeting stated, first about the car?

A First about the car?

Q First about the car.

A Mr. Dorfman emphatically stated there was a car. Mr. Kean said, "I don't believe there is." Mr. Dorfman said, "Why don't you come out to the plant and see it?"

This was quite a heated argument and discussion, and it just kept going on and on. It like didn't get resolved until Mr. Kean finally agreed to go out to the plant to see it.

Q Did Mr. Erazo say anything during this discussion?

A Yes, it was a four, five way conversation, very heated arguments at times. I don't remember specifically what he said, but it was all along the same lines, pertaining to there is a car, there isn't a car.

And Mr. Dorfman would jump out of his seat and yell and carry on that there was and there is, and, you know, very emphatically.

Q And what did you say at that meeting?

A I didn't have much to say. I mean I mostly listened. You know, I'm sure I said something here or there, but I really don't remember.

Q Do you recall what Mr. Jacobson said at that meeting?

MR. SCHIEREN: Objection, your Honor.

Q Do you recall if you heard anything of what Mr. Jacobson said at that meeting?

MR. SCHIEREN: Same objection.

THE COURT: No. Overruled.

A I really don't remember any particular sentences offhand.

Q Do you recall if a Mr. Weil was in attendance at that meeting?

Does that name ring a bell?

A Weil. Weil. What is his first name?

MR. HECHT: I just know Weil.

A I have heard the name, but I can't place it.

Q And you can't place anyone like that at this meeting?

A Offhand I can't.

Q Did you subsequently go out to the Plainview facility with any of the persons at this meeting?

A No.

Q After that meeting, did you cease dealing in Lawn-A-Mat's common stock for a period of time, retailing it?

A At a later date we did. But I don't know if it was right after that meeting. Because I don't remember when that meeting took place. That's why I can't answer that.

Q With respect to Mr. Dorfman's sale of stock, Dan Dorfman's first, in November of 1974, do you recall any discussions between yourself and Mr. Dorfman?

A Yes. When I told him I would, you know, trade his stock, he offered me a token amount of stock of his to get me started, you know, for the going price at that time. And I eventually purchased either 1000 or 2000 shares. It was a small amount. It was very small in dollars, because the stock was maybe a quarter or thereabouts.

Q Did you purchase them directly from Mr.Dorfman?

A No. It had to go through his attorney, Mr. Kean.

Q And did you have discussions with Mr. Kean?

A Yes, sure.

Q And do you recall what you said to Mr. Kean and he said to you?

A It was on the basis of "Mr. Dorfman wants to sell whatever the amount was, 1000 or 2000 shares of stock, and you have to file it and register it or whatever you do with it."

And he said, "OK, I'll take care of it and I'll put in all the papers."

In fact I even made a short trip up to his office to pick up some papers or something at the time to bring them back to our office, to facilitate it.

That's about it.

Q And do you know, does the name of Weller & Co. ring a bell?

A Yes. That was another firm that traded Lawn-A-Mat.

Q And do you know if Mr. Jacobson sold his stock through Weller & Co.?

A Mr. Jacobson?

Q Mr. Dorfman. Pardon me.

A I don't -- I think he sold it to Aaron.

Q Dl you know who Larry Firrirncielli is?

A Yes. He was one of the cashiers, or whatever his title was, in the back office of E. L. Aaron.

Q And did he process these orders?

MR. SCHIEREN: Objection to the form of the question.

THE COURT: I'll permit it.

A I don't know if he did that initially. I'm not sure he was working there at that time.

Do you happen to know when his employment was?

I remember him at a later date. I don't remember him initially. I'm not sure if he did. They had quite a few people working in the back office, so I can't say that he specifically did it, if he was there.

MR. HECHT: I have no further questions.

MR. SCHIEREN: May I have a moment, your Honor?

THE COURT: Yes.

(Pause)

CROSS-EXAMINATION

BY MR. SCHIEREN:

Q Mr. Schreiber, were you a defendant in this lawsuit?

A A defendant in this lawsuit? I don't believe so.

Q Were you sued by the SEC in connection with your activities in Lawn-A-Mat stock?

A Oh, yes.

Q What was the result of that lawsuit?

A A suspension.

Q Did you contend the entry of a permanent injunction against you?

A I neither consented nor denied.

Q You neither admitted nor denied?

A Right, however it was worded.

Q Were you the subject of an administrative proceeding brought by the SEC against you in connection with this matter?

A Yes.

Q What was the result of that administrative proceeding?

A It all boils down to the same thing. I got a suspension without admitting or denying.

Q For what period of time?

A Three years.

THE COURT: What?

THE WITNESS: Three years.

THE COURT: Three years.

Q Mr. Schreiber, were you the subject of any other SEC enforcement action in connection with any other stock?

A Any other stock?

Q Aside from Lawn-A-Mat.

THE COURT: Any other securities transactions?

THE WITNESS: There was a previous problem a couple of years prior with another employer. I believe those two are connected.

Q What was the name of that security?

A It wasn't a security. It was a firm.
Alpha Capital.

Q And the SEC instituted proceedings against you in connection with that matter as well?

A Yes. I believe the two were connected. That's for the length of time.

Q Mr. Schreiber, you testified on direct examination that you met Mr. Daniel Dorfman in approximately October of 1974, is that correct?

A Approximately, yes.

Q What was Mr. Dorfman's position at Lawn-A-Mat at that point in time?

A President. And major stockholder, may I add.

Q Do you know what Mr. Dorfman's position at Lawn-A-Mat was in December of 1974?

A 1974?

Q 1974.

A So far as I know, he was still president.

Q What about in January of 1975?

A At some point in time he became chairman. I don't know what month that was.

Q He became chairman of what?

A Chairman of the board and Erazo became the president. But I don't know what month that was. So you can keep asking me months, but I don't know the answer.

Q Isn't it a fact that during the period between January 1, 1975 and August 1, 1975, Mr. Dorfman had nothing to do with the day-to-day operations of Lawn-A-Mat?

A I don't know that that's true.

Q Mr. Schreiber, during the period between November of 1974 and August of 1975, were you soliciting purchases of Lawn-A-Mat stock?

A What were the dates again?

Q November of 1974 through August of 1975?

A Yes.

Q Continuously throughout that period, correct?

A Yes.

Q Did you use the telephone to contact prospective investors?

A Yes.

Q Did you also send out letters to investors?

A Some.

Q About how many people did you either contact by telephone or mail in connection with Lawn-A-Mat stock during this period of time?

A That is a very difficult question. It could be

200, it could be 1000. It is hard to say.

Q It was greater than 200?

A It could be because many people were called on more than one occasion,and that wasn't the only stock I was trading and it wasn't the only thing I was involved in.

Q I believe you testified on direct examination, Mr. Schreiber, that you visited a facility in Plainview some time in early 1975, is that correct?

A Yes.

Q What was the name of that facility?

A Stellar Industries or Corporation, something.

Q Who owned that facility? Do you know who owned that facility?

A Bernard Discount owned it and some time in the early part of 1975 he became partners with Dan Dorfman on that facility and I was told that stock exchanged hands, that Discount now was a substantial stockholder in Lawn-A-Mat by giving up his portion of that business in Stellar to Dorfman.

Q But Lawn-A-Mat didn't own that facility, did they.in January of 1975?

A No.

Q And that was where you saw the car and the motorcycle, is that correct?

A Right.

Q During your visit to the facility in Plainview at that point in time, you testified that Mr. Dorfman told you that they were making motorcycles and they had manufactured a prototype of a car, is that correct?

A Yes.

Q Who was "they"?

A "They" was the company on the premises where I saw the motorbikes, which were numerous, no one or two, but a few doezen.

Q That was Stellar, then, right?

A Yes.

Q Not Lawn-A-Mat?

A Right.

Q You testified that Mr. Dorfman kept telling you that "they" were making a car, is that correct?

A Yes.

Q And, on the other hand, you testified that Mr. Erazo and Mr. Kean informed you that Lawn-A-Mat certainly wasn't making a car, is that correct?

A Right.

Q After you heard the contradictory stories from Mr. Kean, Mr. Erazo and Mr. Dorfman, or apparently conflicting stories--

A Excuse me. I don't recall if I had, or if it was just maybe on one occasion, any conversation with Erazo pertaining to the car.

Q But on the one time at least that you spoke to him he directly told you there was no car, is that correct?

A And that was at a much later date, that was not at an earlier time.

Q Miss Lane called you and told you there was no car, is that correct?

A Right, exactly.

Q After you heard conflicting stories from various people affiliated with Lawn-A-Mat, did you still continue to dolicit customers to purchase the stock?

A Yes.

Q Did you still make representations in connection with an automobile?

A Yes.

MR. SCHIEREN: One second, your Honor.

(Pause)

MR. SCHIEREN: We have no further questions.

THE COURT: All right.

Next witness.

MR. HECHT: I have two questions on redirect.

REDIRECT EXAMINATION

BY MR. HECHT:

Q Mr. Schreiber, in January 1975, were you aware that Lawn-A-Mat had an option to purchase United Stellar and certain related companies?

A On or about then, yes.

Q And at any time in your dealings with Lawn-A-Mat, was there any doubt in your mind that this car was being developed for the benefit of Lawn-A-Mat?

MR. SCHIEREN: Objection, your Honor.

THE COURT: Sustained.

Q At any time did Dan Dorfman indicate to you that this car was being developed on behalf of Lawn-A-Mat?

A Yes. It was for Lawn-A-Mat.

MR. HECHT: I have no further questions.

MR. SCHIEREN: I have no further questions.

THE COURT: All right. You may step down.

(Witness excused)

MR. HECHT: Your Honor, do you want to go to the next one? We have been going about two hours straight.

THE COURT: Yes.

GEORGE PLAVE, called as a witness by the defendant, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. HECHT:

Q George, what is your present residence address?

A 155 Hathaway Avenue, Elmont, New York.

Q Mr. Plave, when did you become employed by E. L. Aaron & Co.?

A I think it was in November 1969.

Q What was your job there?

A Cashier.

Q Is that commonly --

A Operations manager, sort of.

Q Where the cashier operates, is that commonly known as the cage?

A That's right.

Q For how long did you remain the cashier at E. L. Aaron & Co.?

A Until approximately November of 1975.

Q And in November of 1975, where did you become employed?

A British American Commodity Options Corp.

Q When you became employed at E. L. Aaron & Co., who interviewed you?

A Mr. Edward Aaron, and I think Mrs. Aaron, who was present at the time.

Q What did Peter do for E. L. Aaron & Co. during the first year you were employed at the job; how would you describe his job responsibilities?

A Well, at the beginning, we worked together in putting the records in shape, I mean, they were out of order, and he worked with me on that, and then I went back and did my normal duties in the cashiers's department.

Peter worked in the trading room, you know, he worked around in the office that way. I didn't have too much contact with Peter at that particular time. I was very busy.

Q OK.

And between January 1, 1974 and when you left E. L. Aaron & Co., what did Peter do then?

A Well, Peter, he was a liaison between the salesmen and the cashier's department, and the trading room.

Q Do you understand what a registered principal is?

A Yes.

Q How long have you been in the brokerage industry?

A 45 years.

Q At any time, to your knowledge, was Peter Aaron a registered principal?

A As far as I know, no.

Q At any time, to your knowledge, was Peter an officer of E. L. Aaron & Co.?

A I don't recall that. He may have been. I don't know. I mean at that time --

Q OK. Let's say between 1974 and the time that E. L. Aaron closed up.

A No. Peter Aaron was not an officer of the company.

Q At that time?

A No.

Q And as a director, was Peter Aaron ever a director of the company, to your knowledge?

A No, he was not.

Q Who made the decisions as to what your salary was to be? Was it Peter Aaron or Edward Aaron?

A Truthfully, it was made when I was employed, and it was never changed, so Peter never had anything to do with my salary.

Q Would you say that Eddie Aaron ran E. L. Aaron & Co.?

A As far as I'm concerned, he did, because all the problems that I had, I took up with Eddie Aaron.

MR. HECHT: I have no further questions.

THE COURT: All right.

MR. SCHIEREN: One second, your Honor, please.

(Pause)

MR. SCHIEREN: We have no cross-examinatio for this witness.

THE COURT: All right. You may step down.

(Witness excused)

THE COURT: Next witness.

RICHARD DEUTSCH, called as a witness by the defendant, being first duly sworn, testified as follows:

MR. HECHT: Your Honor, we are moving a little faster than I expected.

THE COURT: Very good. Let's proceed. Let's not stop the momentum. Let's go.

MR. HECHT: Except we are running out of witnesses today and if I can, I'd like to get Mr. Aaron to call and maybe we can get a couple more witnesses down on our list.

THE COURT: He is right there. How long are you going to be with this witness?

MR. HECHT: I shouldn't be more than about ten minutes.

THE COURT: All right. And you don't have any after that?

MR. HECHT: Well, I do have other witnesses.

THE COURT: I meant available.

MR. HECHT: Not available. One should be here. We have got him here on ten minutes' notice.

THE COURT: Very well. All right.

DIRECT EXAMINATION

BY MR. HECHT:

Q Mr. Deutsch, would you please state your present residence?

A 26 East 29th Street, New York City.

Q And where are you presently employed?

A Philips, Appel & Walden.

Q Have you ever had any problems with the SEC or the NASD or the New York Attorney General?

A No.

THE COURT: That firm that you are with, what is it?

THE WITNESS: Philips, Appel.

THE COURT: What do they do?

THE WITNESS: They are a New York Stock Exchange brokerage firm.

THE COURT: OK.

Q And are you a registered representative with that firm?

A Yes.

Q And when did you become associated with that firm?

A January of 1975, I think, last year.

Q OK.

And prior thereto where were you employed?

A Well, for a very short period of time, about three months, I was employed at Heine, Fishbein & Co., also members of the New York Stock Exchange.

Prior to that I was employed at E. L. Aaron & Co.

Q For how long were you employed at E. L. Aaron & Co.?

A I would say about a year and three-quarters, something like that. A year and a half to two years.

Q Were you employed on a full time basis?

A Yes.

Q Do you recall how you found out about E. L. Aaron & Co.?

A Yes. During one of my previous employments I had the opportunity to talk to some of the traders in the function of buying and selling securities for the firm's account, and I had occasion to speak to Eddie Aaron as a marketmaker, so I knew him for a couple of years before I came to work there, and at a previous employment, one of their sales people, whom I had formerly been employed by, asked me if I'd like to -- he thought they had a good operation, I should come talk to Eddie Aaron and if the opportunity ever came up, I would know where I could go.

Q Did you talk to Eddie Aaron?

A Yes, I did.

Q Prior to your becoming employed at E. L. Aaron & Co., did you speak to Peter Aaron?

A I didn't meet Peter until I had become employed by Eddie Aaron.

Q And how would you describe Peter's function at E. L. Aaron & Co.; what did he do?

A Well, at first I didn't know that Peter did really anything except keep some records. I was mainly getting my accounts over, and I just saw Peter there. I knew he was the boss' son, and that's all I knew of his function.

After a while, we had moved to larger quarters, and Peter did handle communications between the cage and the sales people and Eddie and the sales people, and he was a general troubleshooter, I guess. I don't think I could define a job title for him other than --

Q Assistant to the president, is that an accurate title?

A Yes, I would say that is very accurate.

Q Who would you say ran the show at E. L. Aaron & Co.?

A Eddie Aaron.

MR. HECHT: I have no further questions.

THE COURT: All right.

MR. MANDEL: No questions, your Honor.

THE COURT: All right. You may step down.

(Witness excused)

MR. MANDEL: Your Honor, if I might, it might be appropriate at this time, in view of the fact that there are no witnesses available right now, to take up a matter with respect to some witnesses we have been advised that the defendant will call to the stand.

We have been advised that the defendant is going to call two attorneys to the stand to testify as experts.

THE COURT: On what?

MR. HECHT: Rule 144.

THE COURT: Don't need it. Don't need it.

MR. HECHT: Okay. Your Honor, I should point out in this connection, this is the first litigated case --

THE COURT: I understand. That's fine. We may not even have to reach that question here, and if we do, the Court will reach it on its own. The Court will interpret the law. That's their function.

All right, we will take a ten-minute recess. You will be able to gather some witnesses between then and now. I expect to go until about five o'clock.

MR. HECHT: Your Honor, most of our witnesses tomorrow -- we have Mr. Lipton here; we will go with him right now.

THE COURT: No, these boys need a little break.

[Recess.]

MR. HECHT: Your Honor, at this time the defendant would like to call Mr. Ted Lipton to the stand.

THEODORE J. LIPTON, called as a witness by the defendant, having been first duly sworn, testified as follows:

***

DIRECT EXAMINATION

BY MR. HECHT:

Q Mr. Lipton, where do you presently reside?

A 666 Shore Road, Long Beach, New York.

Q And what is your present occupation?

A I am a registered principal with Brooks, Hamburger Securities Corporation, 77 Water Street, New York.

Q How long have you been a registered principal with Brooks, Hamburger?

A June '76.

Q Prior to June '76 were you also employed by Brooks, Hamburger or were you employed elsewhere?

A I was a registered rep with Brooks, Hamburger from the end of November 1975 till June '76 when I became a registered principal.

Q Prior to November 1975 where were you employed?

A I was employed at E. L. Aaron & Company from the end of May, 1975 until November of 1975 as a registered rep.

THE COURT: What period of time?

THE WITNESS: May '75 through November '75.

Q Were you employed as a full time registered rep with E. L. Aaron & Co.?

A Yes, I was.

Q And prior to May 1975 for how many years had you been in the securities business?

A Most of my adult life.

Q Would you say you had more than 25 years experience in the securities business?

A More than 25 years.

Q And how long have you known Eddie Aaron and Peter Aaron?

A Sixteen years.

Q Prior to May 1975 had you ever worked for E. L. Aaron & Co. before then?

A No.

Q While you were at E. L. Aaron & Co. would you describe what you perceived to be the duties of Peter Aaron?

A Are you requesting my opinion?

Q Yes. Not opinion. Just describe what the duties were, what you saw they did.

A In relationship to myself?

Q Right.

THE COURT: Well, what did he do in the office I think is the question.

Q What did he do in the office?

A I don't know what Peter Aaron did in the office, or anybody else. I can only relate what he did with me. Peter Aaron was essentially a catalyst between myself and Eddie Aaron.

Q And what did he do as a catalyst?

A He conveyed messages from Eddie Aaron to me and from me to Eddie Aaron.

Q Did you ever see Peter supervising the retail salesmen at E. L. Aaron & Co.?

A No.

Q In your opinion, did Peter Aaron run E. L. Aaron & Co.?

A Not as long as Eddie Aaron was there.

Q And was Eddie Aaron there almost all of the time?

A Eddie Aaron was there full time.

Q Would you say that Eddie Aaron ran E. L. Aaron

& Co.?

A Yes, I would.

Q Would you say that although it had a number of brokers, it was, as far as management goes, a one-man show?

MR. SCHIEREN: Objection, your Honor.

THE COURT: Yes, sustained.

Q Would you describe the duties of Edward Aaron, if you can, during that six months that you were with E. L. Aaron & Co.?

A Eddie Aaron was in full charge of everything that went on within the company as regards my relationship to and with him.

Q And Ed Aaron set the amount of your commission rate?

A Ed Aaron was the man that set everything that I did within his organization.

MR. HECHT: I have no further questions.

MR. MANDEL: No questions, your Honor.

THE COURT: Very well. Next witness.

[Witness excused.]

MR. HECHT: Your Honor, at this time we called Mr. Lipton and got him here. The only other witnesses we would have -- one would be Mr. Aaron, of course, the final witness -- would be a Dan Brescher whom I don't anticipate taking more than about twenty minutes. I understand he is in Vermont. He is returning tonight. I have made arrangements for him to be here in the morning.

THE COURT: Why don't we go ahead with Peter Aaron?

MR. HECHT: I would rather not, your Honor, because I would rather save him as the last witness.

THE COURT: I don't think it's necessary. This isn't a jury trial. Let's use the next half hour.

PETER E. AARON, called as a witness by the defendant, having been previously sworn, testified as follows:

THE COURT: All right, you are still under oath.

***

DIRECT EXAMINATION

BY MR. HECHT:

Q Mr. Aaron, do you recall who Larry Powers is?

A Yes.

Q Okay. Did there come a time at E. L. Aaron & Co. where he physically threatened you?

A Yes.

Q When was that?

A At the very end of Larry Powers' employment with E. L. Aaron & Co., he came to both me and George Plave, or he talked to the both of us when we were in the cage, and said he wanted his check now before any of his customers funds or all of his customers funds and stock had not come in, and that if he didn't get the stock in, he was going to kill me and he was going to kill George Plave.

Q And he is a lot bigger than you, isn't he?

MR. MANDEL: Objection.

THE COURT: Yes.

MR. HECHT: We will withdraw the question.

Q Did there come a time prior to this dispute when you wanted to fire Larry Powers?

A Yes.

Q Would you describe to the Court the circumstances?

A Michael Guyer's wife, which Larry said was one of his accounts, rather mysteriously seemed to make some extra money in her account and it came out of the trading account, with tickets that were written by Larry. They were shown to me by Tom Fox and George Plave.

1/13

SEC v.
Aaron

6a

Q And when you wanted to fire him, who did you discuss it with?

A My father.

Q And what was the final decision with respect to him?

A He was not fired.

Q And did Larry Powers know you felt this way about him?

A No. The conversation was between my father and myself.

Q Now, with respect to Dan Dorfman, do you recall when he came to see you at E. L. Aaron & Co.?

A I don't remember the exact date, but I remember him coming to see me at E. L. Aaron & Company, yes.

Q And do you recall what he said to you with respect to Lawn-A-Mat?

A Yes. He showed Don Jacobson, myself and Norman Schreiber the picture of a plant, a picture of a car, and told us that he expected the company to do very well and that the company was going to be producing this car at this plant.

Q And by "the company" was it your understanding that he meant Lawn-A-Mat?

A No. He specifically said Lawn-A-Mat.

Q Now, with respect to Milton Kean, do you remember when he telephoned you with respect to --

A I don't remember the specific date, but I remember him calling me, yes.

Q But he said he called you once. Do you recall if he called you once or twice or called E. L. Aaron?

A He called E. L. Aaron & Company twice and he talked to me twice.

Q And he talked to you twice. And the first time he called you, do you recall what he said to you?

A Yes. He said, "I'm filing the 10K and I'm not completed with the filing yet, and the car and the tractor are not included in the filing, and because they are not included in the filing, stop Norman Schreiber from talking about the car," and/or the tractor. I don't remember whether it was and/or the tractor. I know it was the car, but I don't remember whether it was and/or the tractor.

Q That was the first conversation.

A Yes.

Q And the second conversation, I believe you testified, was with respect to what the SEC asked you on direct? That was a very short call.

A Yes.

Q Can you think of anything else he may have said to you during that call, the second call, other than what you've testified to?

A No,

Q Now, with respect to Weller & Company, did you know who they were?

A Yes.

Q E. L. Aaron & Company dealt with a lot of stocks that were less than $5 in value, am I right?

A Yes.

Q Were you aware of the impact of the New York State Transfer Tax with respect to people who sold stock that was worth less than $5?

A Yes.

Q Would you state to the Court what your understanding of the taxes were?

MR.MANDEL: Objection, your Honor, relevancy.

MR. HECHT: I think this goes to why they dealt very often with New Jersey brokers, one of whom was Weller & Co.

THE COURT: I have his affidavit and I see that it is in there. But is that going to excuse the violation in any way? The fact that it was more profitable or the stock consequences were better by doing it this way, does that excuse the violation of the rule, if there is such? It may be an explanation for it, but does it excuse it?

MR. HECHT: Let's assume, solely for argument purposes that there was a violation of Rule 144, which we contend is clearly a seller's exemption and there is no duty on the brokerage house that ultimately purchases the 144 stock. In many instances it is just so much better for the customer for tax reasons to go through New Jersey because the stock transfer tax on a so-called low price stock is very punitive --

THE COURT: It may very well be. But if it is a violation of the SEC rules, it is a violation, isn't it, whther it is for the benefit of the customer or the broker or anybody?

MR. HECHT: Assuming it is a violation, I feel that you must have the requisite intent to violate the rule, especially in this case where I think under the law, Rule 144, you could have done it before.

But the law has been changed to make it very clear that exactly what E. L. Aaron & Co. did was perfectly legal after. And in the opening statement --

THE COURT: The SEC protests that.

MR. HECHT: I understand.

THE COURT: So that isn't perfectly clear. All right.

It may be perfectly clear to you, but they contest it. They don't concede it.

I would assume that the SEC would not contest those facts set forth in the opposing affidavit in here in which it is indicated that Weller was an intermediary.

MR. MANDEL: No, we won't contest that.

MR. HECHT: I think the intermediary --

THE COURT: Using your own words adopted by your client when he signed the affidavit.

MR. HECHT: I think that when you look at the context of what -- I'll rephrase it another way.

THE COURT: Let's put a question to the witness. Go ahead.

BY MR. HECHT:

Q With respect to low priced stock, did you often recommend to clients that they sell it through a New Jersey broker-dealer?

MR. MANDEL: Objection, your Honor. The same thing.

MR. HECHT: No. It may have nothing to do with Rule 144.

THE COURT: Yes. I'll permit it.

A Yes.

Q And who received the benefit of these tax savings?

A The seller, obviously.

Q And do you recall that the SEC came to your office to audit the books and records of E. L. Aaron & Co.?

A Yes, I recall.

Q And did they raise a question with respect to these transactions in New Jersey?

A Yes.

Q And in connection with that inspection do you recall E. L. Aaron & Company receiving any correspondence from the SEC?

A Yes.

6bpm

MR. HECHT: At this time I would like the Clerk to mark this as Defendant's Exhibit J.

XX (Defendant's Exhibit J marked for identification)

MR. HECHT: Let the record reflect that I am showing the witness a copy of a two-page document which is marked as Exhibit J.

Q Mr. Aaron, to your knowledge, is this a true copy of a letter that is in the files of E. L. Aaron & Co.?

A Yes.

Q And does E. L. Aaron & Co., to your knowledge, keep on file all correspondence from the SEC?

A It did when I was there, yes.

MR. HECHT: Your Honor, at this time I would like to move that this be admitted as Defendant's Exhibit J.

MR. MANDEL: I'm not sure of the purpose for which this is being introduced, your Honor.

MR. HECHT: This goes to show, going all the way back to 1973, that they very often did deal through Jersey irrespective of the 144. The SEC questioned it. I am going through that they questioned it, they had their opportunity, we talked about it, we wrote them, and they never found --

MR. MANDEL: Your Honor, all that is being introduced here is one letter.

What is this "We wrote to them, we talked about it?" This is a letter saying -- well, the sum and substance is it reviews the transactions there and makes some comments upon them.

But I'm not sure what this has to do with the case at hand, a violation of Rule 144 as alleged herein.

MR. HECHT: This is a practice that Aaron & Co. did for many years with respect to low-priced securities.

MR. MANDEL: There is no reference to the 144 in this particular letter.

MR. HECHT: That you were aware that they did this kind of transaction, and 144 came into effect in 1972 and here's a 1973 inspection.

MR. MANDEL: There is no reference in the letter as to whether or not unregistered securities were involved in connection with this inspection. So this is totally irrelevant. We are back to the tax issue again. This trial is not as to whether or not there is a violation of the tax laws, New York State tax laws; the violation of the registration provision of the securities laws.

This letter makes no reference to that whatsoever.

MR. HECHT: My position, your Honor, is very simply that even assuming arguendo that you find, from your interpretation of Rule 144, that there is a violation, if there was no requisite intent to violate the law, the SEC was aware that they had been doing this for quite a period of time.

THE COURT: I don't think that that goes to the questions of intent at the time involved. That's all that we are involved with.

MR. MANDEL: There are two things: One has to do with what you say. But this is the second time this has been raised and I must raise the fact that the Second Circuit only this past Monday has decided, in the case of SEC v. Universal Major Industries, that there is no intent necessary to be alleged or proved in connection with a violation of Section 5.

MR. HECHT: I read it a little differently than you do.

THE COURT: I really don't think this is particularly relevant to what we have.

I don't see that there is any harm in admitting it. It isn't relevant, as far as I can see, in connection with the explanations that I have heard. But we will receive it.

xx (Defendant's Exhibit J for identification received in evidence)

Q And subsequent to that letter, do you know if anyone at E. L. Aaron & Co. contacted the New York State Department of Taxation?

MR. MANDEL: Objection, your Honor.

THE COURT: Yes. I don't think we have to get into the Department of Taxation, the New York State Department of Taxation.

MR. HECHT: OK.

Q Did you ever receive a call from Dan Dorfman or did Dan Dorfman ever tell you that Schreiber or Jacobson were doing anything improperly?

A No, I did not.

Q Did you ever receive a call from Fernando Erazo, president of the company, after some time in 1975?

A No, I didn't.

Q To your knowledge, did anyone at E. L. Aaron & Co. receive a telephone call from these people at any time?

A To my knowledge, no.

Q When did E. L. Aaron & Co. close down?

A About four or five months ago.

Q When did you leave E. L. Aaron & Co.?

A The end of September, the beginning of October.

Q And since you left British American, isn't it a fact that you made more money in the last 15 months in commodity options than you made in your whole life in the brokerage industry?

MR.MANDEL: Objection.

THE COURT: Sustained.

MR. HECHT: No further questions.

THE COURT: Anything further?

MR.MANDEL: No questions, your Honor.

THE COURT: You may step down.

(Witness excused)

THE COURT: Do you want to wait for that witness tomorrow?

MR. HECHT: There would be one, Mr. Drescher, possibly Mr. Stewart, and if I can get a hold of Mr. Jacobson. We have a problem. His mother died last Friday.

THE COURT: All right.

You have a little time now. Why don't you get together on your depositions and see what you can do with those? It should have been done before, gentlemen. It should have been done before.

So don't complain that you are doing it at a quarter to five on Thursday afternoon.

All right.

We will start at 9:30 in the morning.

I think you ought to get together on some of these depositions and the summaries and see what you are going to read.

Do you know whether you are going to put in any of the depositions, Mr. Hecht?

MR. HECHT: If Mr. Jacobson doesn't come, I am going to put in a part of his. I think as to four of them we have stipulated already that all of them go in, so I have no problem. And I have been over tentatively with Mr. Mandel on what I want to put in with respect to Mr. Kaplan and Mr. Gordon and he disagrees as to certain of the things that I want to put in.

THE COURT: All right. Can youread the summaries now and see whether or not they are adequate?

MR. HECHT: I looked at Mr. Gordon's.

MR. SCHIEREN: Your Honor, if we may, Mr. Kaplan and Mr. Gordon are both investor witnesses and also Lawn-A-Mat dealers and the information that Mr. Hecht would like to introduce is the same information that your Honor ruled to be irrelevant; that is, that these investors were also informed about a car by Mr. Dorfman, other people than Mr. Schreiber and Mr. Jacobson.

MR. HECHT: And that they were informed by Mr. Dorfman prior to the time they ever spoke to Mr. Schreiber and that they were informed that this is a car that was built by Lawn-A-Mat.

THE COURT: It is not relevant.

MR. SCHIEREN: Precisely our objection, and that is what Mr. Hecht is seeking to introduce.

THE COURT: I already excluded it.

All right.

(An adjournment was taken to Friday, January 14, 1977, at 9:30 a.m.)

WITNESS INDEX

Name	Direct	Cross	Redirect	Recross
Daniel Dorfman	238	244	307	310
Peter E. Aaron	311			
Samuel Jacobs	363			
Edward L. Aaron	369	373		
Norman Schreiber	377	415	422	
George Plave	423			
Theodore J. Lipton	432			
Peter E. Aaron	436			

EXHIBIT INDEX

SECURITIES AND EXCHANGE COMMISSION

- v s - 76 Civ. 0907

E. L. AARON & COMPANY, INC., et al.

January 14, 1977

[11:00 a.m.]

— — —

[Trial resumed.]

MR. MANDEL: Your Honor, Mr. Hecht and I have discussed the summaries prepared by the plaintiff, the summaries of the depositions we offered in.

THE COURT: Yes?

MR. MANDEL: And we have agreed that the plaintiff's summaries are accurate, and there appears to be no objection to the introduction of these summaries with the sole exception of Mr. Shapiro's testimony.

In that connection, it appears that Mr. Hecht has some objection on the grounds of relevancy to a certain portion of the testimony. But the remaining summaries we have agreed on.

THE COURT: Fine. Very good. Do you want to put them in evidence, then?

MR. MANDEL: Mark them as an exhibit, your Honor?

THE COURT: Yes.

MR. HECHT: Your Honor, as far as the defendant's we zeroed in on that last night. Of course, there are certain portions of the testimony, of the EBT's, that the defendant would like to submit. I submitted the major one, which is Mr. Jacobson's. We'll try to get that in to you as soon as possible.

THE COURT: Fine.

MR. HECHT: The second, your Honor, is a preliminary matter. I noticed that in the examination of Mr. Firrincieli on Monday, when he came here to testify, and we did it by EBT, there was a schedule of the pink sheets with respect to the trading data of the Lawn-A-Mat common stock, a summary, and we have agreed to everything except as to its admissibility because the plaintiff does not feel that it is relevant.

I do feel it is relevant because it goes (a) to the credibility of certain statements made by customers; (b) it goes to the Rule 144 transaction, as to the relationship of the price received by the Dorfmans to the market price, and harm to the public, which goes to any possible equity discussion. It is a summary trading schedule rather than putting in a mess of volume of pink sheets.

MR. SCHIEREN: Your Honor, we object to the relevancy of the introduction of that document. First of all, I don't think the credibility of the customers, the investors, is in issue here. Secondly, the chart shows the bid and asked prices of Lawn-A-Mat common stock for the relevant periods of time and I don't see what relevance that has to the issues at hand.

THE COURT: Really, what relevance does the price for the stock have with anything here?

MR. HECHT: The other thing it shows is that Aaron & Co. was probably the principal market maker in Lawn-A-Mat's common stock during the relevant period.

THE COURT: There is no objection to that. That is a conceded fact, isn't it?

MR. HECHT: Okay.

THE COURT: They are nodding yes.

MR. SCHIEREN: Yes.

THE COURT: Okay.

MR. HECHT: And I think it shows in here that if someone wanted to sell a large block of stock, really Aaron & Co. was probably the only one at that time that could have purchased it.

MR. SCHIEREN: We agree with that.

THE COURT: That is not in issue here. I don't feel it is in issue.

MR. HECHT: Okay.

MR. MANDEL: The only other thing in that connection, though, is that there were other market makers as well.

THE COURT: Yes.

MR. HECHT: And I do think --

THE COURT: All we've got involved in here is the sale of 1,000 shares, don't we?

MR. MANDEL: 21,000.

THE COURT: 21,000. Excuse me. Fred Dorfman sold 20 and 1,000 by Dan Dorfman. That's right, yes.

MR. HECHT: And I think it is relevant because it does show that there was a market for the stock, who was actually active in the market as far as putting in bids.

THE COURT: It doesn't make any difference, really, unless it relates to the particular investors who were called here as witnesses.

MR. HECHT: It does relate to certain of the EBT's that they are submitting and their witnesses' testimony as to what the price of the stock was and why they didn't believe Schreiber and Jacobson.

THE COURT: Why they didn't believe them?

You are conceding that Schreiber and Jacobson made false and misleading statements, is that it? Are you sure you want that in, Mr. Hecht?

MR. HECHT: If you interpret it that way, no, your Honor. What I am saying is that we had a customer saying that Schreiber quoted him a price of so many dollars and the price that Schreiber was talking about is verified in this schedule here.

MR. SCHIEREN: The schedule does not verify it.

MR. HECHT: It shows the bid and the asked price.

THE COURT: It wouldn't be relevant at all as to that issue.

MR. HECHT: Your Honor, can I do it this way? If you don't feel it is admissible, fine. But can I put in some reference, when we summarize our findings of fact and conclusions of law that relate to this? Because I think it is somewhat relevant, since it is for identification purposes.

THE COURT: When you summarize your questions of fact, I am going to ask you to refer to the page of this record where you believe there is testimony that would substantiate the proposed finding.

MR. HECHT: Right.

THE COURT: But, I mean, really what relevance does this have?

MR. HECHT: I thought it was relevant on both the 144 issue, and there were certain statements made by the investors, the investor witnesses, that the price was going up in Lawn-A-Mat, and in fact the price did rise during --

THE COURT: Put it in. I don't think it has any relevance. I will look at it when you submit it with reference to the page numbers. But I, frankly, fail to see that it is relevant at all. All right. There is not going to be any harm. It is a bench trial.

MR. HECHT: Thank you, your Honor.

THE COURT: If I find it is not relevant, I will disregard it completely.

1b am

jg:mg 1

MR. MANDEL: Your Honor, I had marked the summaries of the depositions as Plaintiff's Exhibit 34 for identification.

I offer them in evidence.

THE COURT: Now in evidence. Without objection, received.

XX

(Plaintiff's Exhibit 34 for identification received in evidence)

MR. HECHT: Your Honor, can I have time to submit ours? I want to sit down and discuss with them what we can work out.

THE COURT: Yes. I am going to give you time, when everything is all over, as to where we can go, but I am not going to take much time to have you submit memoranda and findings of fact. These things ought to be gotten out of the way as promptly as possible.

It is fresh in my mind. I don't want to get it a month later and then have to go back all over through the entire thing. I have it fresh in my mind now and I am going --

MR. HECHT: Can I get it to you, with their cooperation, by Tuesday?

THE COURT: All right. That will be all right. What do we have left?

XX

(Defendant's Exhibit A received in evidence)

MR. HECHT: Your Honor, the defendants would like next to call Larry Cohen.

THE COURT: How long do you expect to take this morning?

MR. HECHT: I would say with Mr. Cohen approximately five to ten minutes, with Mr. Drescher approximately 15 minutes.

I do ask the Court's indulgence.

There is on the record, with respect to Mr. Aaron-- yesterday we pulled him in to fill in the day -- I wanted to just call him back to ask him about his prior problems, if any, with the SEC or the NASD because I think that goes to -- and what his future intention is. All you have is my statement as part of the opening when you asked some questions.

LARRY COHEN, called as a witness by the defendant, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. HECHT:

Q Mr. Cohen, would you state your present residence?

A 152 East 35th Street, New York, New York.

Q And what is your present occupation?

A In the manufacturing business, plastics manufacturing.

Q And prior to that, did there ever come a time when you were employed at E. L. Aaron & Co.?

A Yes, I was.

Q In what capacity?

A I was a registered rep and a trader.

Q And do you recall when you began your employment with E. L. Aaron & Co.?

A I don't remember the exact date. I was working there between 1974 -- 1974 and 1975.

Q And how did you find out about E. L. Aaron & Co.?

A Prior to that I was with a brokerage firm that went into liquidation, and I wasn't working anywhere for a period of a few months, and a friend of mine had told me that he was working with a firm and he thought it was a very good situation at the time. The market was pretty quiet and there wasn't much doing. I wasn't in a rush to do anything, but I finally decided to go with the firm. I went down to see them.

Q And who did you see at the firm, if you can recall?

A I had dealt with the firm before and I had dealt with Eddie Aaron, Ed Aaron.

Q And did Ed Aaron interview you?

A Yes, he did, as a matter of fact.

Q Was there anyone else present when Mr. Ed Aaron interviewed you, if you can recall?

A I really can't recall. I had come in to meet him in the trading room at the time, and if there was anybody in there when I had come in, Ed asked them to leave and I just don't remember. It was several years ago. It was not of any consequence at the time.

Q And did you immediately start work the next day or did he tell you to come back and begin in a week, two weeks?

A No, I don't think I started immediately the next day. Because I wasn't sure I wanted to go there immediately. But I did take some registration papers which I had to fill out to file, to get registered.

Q OK, and do you recall them giving you any other papers at the time they gave out registration papers?

A There was a folder of papers pertaining to the operation of the firm, who and how and what. It was basic compliance type stuff, what the firm did, and there was a question at the time because they were a NASD firm, not a member firm, about my registration continuing in the New York Stock Exchange.

I don't remember what the outcome was on that, though.

MR. HECHT: Your Honor, at this time I'd like the Court Clerk to mark as Defendant's Exhibit K a 27-page document entitled,"The Registered Representative's Manual of E. L. Aaron & Co."

xx (Defendant's Exhibit K marked for identification)

MR. HECHT: Could you please give that to the witness.

Q Have you finished looking at that document?

A Yes.

Q Is that one of the documents that was given to you by the firm to read?

A This was very similar to something I had gotten. It was not as new as this, it was dog-eared, and it was a basic idea of the firm's procedures. It was like -- I remember seeing something like this or reading something like this. Yes, it was amongst a bunch of papers, forms with the company. They had given me a whole bunch of forms like execution forms and how and what stuff I handled.

I cannot specifically say this was the exact same thing. I remember looking at something like this.

Q To your knowledge, did E. L. Aaron update this manual every once in a while when you were there?

A I don't recall. I don't know. I don't know.

Q Was that similar to the one you read?

A Very similar. I think it was-- I'm trying to think -- it was a blue copy, or an off --

Q Forget about the copy, if you can. Was the substance of the -- could you check it carefully? Was that what you were given? Forget about the cover.

A I remember reading something like this, similar to it. I don't know if it was as complete, or incomplete. It might have been the exact same thing. It was years ago and I just don't remember, I'm sorry, exactly.

I do remember I got a stack of papers, as a matter of fact, and I was told if I wanted to come with the firm, just to fill them out with, you know, my history of where I had worked in the business, and took it from there, and I think it was several weeks until I filed and actually did go with the firm.

Q But you read that or something similar to that before you went with the firm?

A Yes, I did. Absolutely.

MR. HECHT: Your Honor, at this time defendant would like to move for the admission of this document as Exhibit K.

MR. SCHIEREN: Your Honor, objection. I don't think a foundation has been laid.

Second of all, I don't think it is relevant to any issue at hand.

MR. HECHT: One of the issues here is the supervision of the salesmen by E. L. Aaron and under the Geon case, if you have such an item and such an item is required to be read by the employees, that that is relevant to that issue.

MR. SCHIEREN: First of all, we don't know if this is the brochure that the employees received.

Second of all, the only representatives I know who are in issue here are Mr. Jacobson and Mr. Schreiber and there is no evidence that they received this document.

MR. HECHT: I leave it to the Court. I put it this way -- I will ask one question.

Q Were all the retail or all employees of E. L. Aaron, who were employed in any way in sales --

THE COURT: You wouldn't know whether Mr. Jacobson or Mr. Schreiber had a copy of that, would you? That is the real question.

THE WITNESS: I wouldn't know. I don't even know Jacobson and Schreiber.

I know I did see something similar to this. I don't know if this is exactly it, but like it.

Q Would you describe what your duties were at E. L. Aaron & Co.?

A Originally I was to come on as a registered rep and a trader. There was very little trading activity in the market. I did some retail. The market was absolutely dead, there was no trading, very little trading activity. And after a period of time I couldn't make a living out of it. I went to part time. I kept my registration active, and Eddie Aaron traded some of my -- in other words, he would, if I had called in and said, "Look, we would like to do, participate in the stock or something," I would deal with Eddie Aaron directly.

Q Do you recall approximately when you became part time?

A It was several months after. Maybe five or six months after.

Q You were five months full time?

A About four or five months full time, yes.

Q About how many months part time?

A Maybe about a year. I don't remember exactly.

Q And when you were full time, were you at the office every working day for a full working day?

A Yes, it was a job. I would go in to go to work and try to generate some business. It was brutal. It was almost impossible in those days.

Q When you were part time, approximately how many hours a week did you come into the office on an average?

A Maybe about six to eight to ten, something like that, sometimes. It would be sometimes in the late afternoon to catch up and get on records, follow through on certain stocks, to check papers, to see what trades were going, you know, what I was working on, stuff like that. It was mostly a clerical type thing, just following up.

Q Would you describe the duties, how you perceived the duties of Peter Aaron at E. L. Aaron & Co.?

A Most or all -- I can say all of my trading was done with Ed Aaron. I would have Ed Aaron's direct phone number and talk with him. He would handle my accounts if I wasn't there. As far as Peter, Peter was in and out and around, and I just -- Peter never handled any trades if that's what you mean, or he didn't handle anything for me.

In what other capacity, maybe just -- I don't know. Nothing definitive to say, I just don't know.

Q Who do you feel ran the firm?

A I had been dealing with Ed Aaron for years and years and years. It was E. L. Aaron & Co., and I went to Ed Aaron when I got the job, my relationship was with Ed. I don't think I even knew Peter when I came to the firm.

Q But who do you think, from your perception, ran E. L. Aaron & Co.?

A From my point of view it was Ed Aaron, period. I never did any actual business with Peter Aaron per se.

MR. HECHT: I have no further questions.

MR. SCHIEREN: I have no questios of this witness.

THE COURT: You may step down.

Next witness.

MR. HECHT: Dan Brescher.

MR. MOSKOWITZ: If your Honor please, my name is Stanley Moskowitz. I'm an attorney with Brescher, Moskowitz & Altman, 230 Park Avenue, New York.

I'd like permission to sit at defendant's table while Mr. Brescher is being examined.

THE COURT: All right.

DAN BRESCHER, called as a witness by the defendant, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. HECHT:

Q Mr. Brescher, will you please state your present employment?

A I'm an attorney. I'm a partner in the firm of Brescher, Moskowitz & Altman.

Q Where is that firm located?

A 230 Park Avenue, in New York.

Q And did there come a period of time when you were retained as general counsel to E. L. Aaron & Co.?

A Yes.

Q And when was that?

A I was retained in 1971.

Q At that time was this firm you just referred to in existence or were you with another firm?

A No, I was practicing as a private practitioner, a single practitioner.

Q And for how long were you the general counsel to E. L. Aaron & Co.?

A Until the firm discontinued doing business.

Q And when was that?

A I would say that it discontinued doing business around July of this year, of 1976.

Q And do you specialize in any particular area of the law?

A I specialize in securities law.

Q And inthe course of that, do you represent or have you represented a number of brokerage firms?

A I'd say I represented at least ten or fifteen brokerage firms.

Q And of those ten or fifteen brokerage firms, how many were over-the-counter firms and how many were member firms?

MR. MANDEL: Objection, your Honor. I wonder if we can have an offer of proof as to this line of questioning.

MR. HECHT: I wanted to get to the background because it goes to -- he made a certain requst to the NASD with respect to the status of one of the employees.

I can drop that and we will go on, if you object.

I withdraw the question.

(continued on next page)

Q Did there come a time as general counsel to E. L . Aaron & Co. that you made a request or wrote for an interpretation to the NASD with respect to the status of Peter Aaron?

A Yes.

Q And do you recall when that was?

A Not the exact date.

Q Do you recall the circumstances surrounding the making of this request prior to the time it was made?

A I believe it was made in 1971 soon after I had begun representing E. L. Aaron, and in discussing the operations of E. L. Aaron & Co. it came to my attention that Mr. Aaron, that Peter Aaron could sign checks and was involved with certain supervision of the back office, trying to keep the back office up to date, record keeping aspects of the business, and I discussed this with Ed Aaron and we agreed that perhaps it would be appropriate to write to the NASD to determine whether or not Peter Aaron, who had been also serving as a trader and was working in several capacities, would be required to register as a principal of E. L. Aaron & Company.

THE COURT: You say you had correspondence with respect to this?

THE WITNESS: I wrote to the NASD.

MR. HECHT: Yes, sir.

THE COURT: You have the letter?

MR. HECHT: I have both. We can mark it now as Defendant's Exhibits L and M.

***

[Defendant's Exhibit L and M marked for identification.]

MR. HECHT: Let the record reflect that the witness has been handed a copy of Defendant's Exhibits L and M marked for identification.

Q Mr. Brescher, is Defendant's Exhibit L a true copy of what you wrote the NASD?

A Yes, this is a carbon copy. It is a Xerox of a carbon copy.

Q And is that carbon copy in your files, in your office, if you can recall?

A Yes, I believe it is.

MR. HECHT: Your Honor, at this time the defendant would like to move for admissibility of that document.

MR.MANDEL: Your Honor, the plaintiff would object on the grounds of relevancy. We stipulate that Peter Aaron was not, in fact, registered with the

NASD as a principal, but we don't think that is the question in this case, whether he was registered as a principal or not.

MR. HECHT: I think it is a criterion when you write to the NASD and you understand what a registered principal is as distinguished from a registered it shows that over almost six years ago the defendant's duties were described in detail to a Governmental or quasi-Governmental --

THE COURT: What is the date of this letter?

MR. HECHT: August of '71.

THE COURT: It is too remote for the time that is involved in this lawsuit. We are concerned with what was his position in respect to what he was doing and what he, in fact, was doing in 1974 and 1975.

MR. HECHT: Then I will put that in if you want me to, your Honor.

THE COURT: I don't want you to bring it in, but the fact you write a letter telling what his duties are and whether or not he has got to be registered as a principal is not really the issue in this case.

I don't see it as a relevant issue.

MR. HECHT: Well, your Honor, if the man

didn't have any power of control over the firm --

THE COURT: That is a determination that I have to make with respect to the testimony that has been presented to me as to what he was doing in 1974 and 1975.

MR. HECHT: Your Honor, can I ask the Court's indulgence? I will ask a few more questions to bring it up to 1976.

2b.2

THE COURT: He can't tell about that. You weren't there watching what Mr. Aaron did.

THE WITNESS: No, I wasn't, your Honor.

THE COURT: And the information that he got was from either Peter Aaron or from Ed Aaron as to what he was doing there and as to whether or not --

THE WITNESS: No, that is not true, your Honor.

THE COURT: Where did you get it from?

THE WITNESS: I did go down to their office.

THE COURT: How often were you there?

THE WITNESS: Depending on the year, sometime --

THE COURT: Late '74 and early '75, when were you there?

THE WITNESS: I was there more than several times.

THE COURT: Well, what do you mean by more than several times?

THE WITNESS: I would have to search my memory for a moment, but I am sure I was there at least every month.

THE COURT: How long were you there?

THE WITNESS: At least several hours on each occasion.

THE COURT: Tell us what you observed then. That I will permit. But the letter to the NASD in 1971 and so forth are not relevant to this case.

If you want to use this witness for that purpose, he only observed one day for several hours a month in '74 and '75, I will take it for what it is worth.

Q Mr. Brescher, would you describe what you observed Peter Aaron doing when you visited the premises of E. L. Aaron & Co. in 1974, end of 1974 and through, we will say, August of 1975?

A I would say that he was doing virtually the same activities as described in this letter dated August 12, 1971, that is, he was -- may I refresh my memory by looking at it?

Q Yes.

THE COURT: You can't remember? You have to look at a '71 letter to refresh your recollection as to what he was doing in '74 and '75 ?

THE WITNESS: I suppose if I took a moment out to think about it, your Honor, I wouldn't need to look at the letter.

THE COURT: Well, you do that. I don't know how a letter in '71 can refresh your recollection of what somebody was doing in '74 and '75.

THE WITNESS: Well, there were several categories.

THE COURT: What did you observe him doing in the end of '74 and early '75, August of '75?

THE WITNESS: In the category of back office work, he was continuing to be the troubleshooter, whenever a problem arose, I know that Peter was the person to whom the cashier would describe the problem and would work with in terms of coordinating it with the trading department.

When there [illegible] a problem of payment from a customer, the cashier would frequently ask Peter to discuss this with his father. The various back office problems that arise, I know that I have discussed them with Peter, and Peter would try and help.

THE COURT: Just while you were on the premises.

THE WITNESS: Sometimes. Sometimes --

THE COURT: We have to know when you were on the premises what you observed him doing.

Q What did you see when you were actually physically at E. L. Aaron at 50 Broad Street?

A All right. I know that I went to the premises frequently just to see how things were going in terms of who was down there.

I believe there is a change around that time in the operations in terms of expansion, and I went down to look at the changes that were going on in terms of added office space and to see whether or not people who were working there in a supervisory capacity should be so, you know, just to see who was doing what down there.

MR. MANDEL: Objection. I move to strike it. We would just like to know what he saw Peter Aaron do.

THE COURT: Yes.

Q Did you see Peter Aaron supervising anything when you were there?

A I wouldn't say supervising. I would say I saw him running around trying to coordinate a lot of different aspects of the business, one with the other, in that if there was a problem in one department, frequently Peter would be called in to try and smooth the relationships with the other department.

If there was [illegible]tomer complaining rather than bringing it immediately to Ed, if it couldn't be resolved at a lower level, say through Peter and the salesman in the back office getting together and trying to work out a solution and occasionally I would be brought into it, but if it came to the point where a decision had to be made, then we would wind up bringing Mr. Aaron into it. Since he was the principal of the firm, he had to be there at all times. Peter wasn't always there. Sometimes he would be traveling around the country, working on these syndications of public offerings, trying to line up business contacts for the firm, and when he was there it was mostly in the area of coordinating the interaction of the departments that I saw him functioning. I did see him functioning in that level.

Q Okay. In this period did anything come to your attention that would in any way require you to correspond to the NASD with respect to this letter that they went to you August 26th, 1971, stating they did not consider him a registered principal?

MR. MANDEL: Objection, your Honor.

THE COURT: Sustained.

Q Would you say that Peter's duties were more or less in 1974 and '75 than they were in 1971?

A I got the impression that they were less.

MR. MANDEL: Objection, your Honor.

THE COURT: Yes, sustained.

1/14

SEC v.
Aaron

3A

MR. HECHT: Your Honor, is that an objection to the question or to the answer?

THE COURT: The answer is stricken and the objection to the question is sustained.

Q As the attorney for E. L. Aaron & Co., were you required to sell out or review certain filings with the SEC and the NASD and various regulatory agencies?

A I was asked to do that, yes.

Q And on those documents, who signed those documents for E. L. Aaron & Co.?

A For E. L. Aaron & Co., they were signed exclusively by Edward Aaron.

Q And as the attorney for the firm, did you ever represent them in certain litigations, collection work?

A I would say 20 or so cases.

Q And who had the authority to authorize settlements that you made, if any?

A Solely Edward L. Aaron.

Q Do you understand what a registered principal is at a brokerage house?

A Yes, I do.

Q Would you state to the Court what your understanding is?

MR. MANDEL: Objection, your Honor.

THE COURT: Sustained.

Q As the lawyer for various companies in the brokerage industry, were you required to render opinions or to give advice with respect to whether or not certain persons should register as principals with the NASD?

MR. MANDEL: Objection, your Honor.

THE COURT: Yes. Sustained.

MR. HECHT: Your Honor, may I just take a break for a minute?

THE COURT: Yes.

[Pause.]

Q Mr. Brescher, based on your knowledge of E. L. Aaron & Co., is it your opinion that at any time Peter Aaron was required to apply as a registered principal to the NASD?

MR. MANDEL: Objection.

THE COURT: Sustained.

I know I can take opinions and so forth, but I've got enough before me and I don't have to take the opinion of this witness. Based upon the testimony adduced here, it is a factual situation.

MR. HECHT: Not even the opinion of the

NASD?

THE COURT: No. The NASD is only going to give information based upon what is supplied to them as to what a person was doing at a particular time. They don't have the information that was testified to in this courtroom before me as to what Peter Aaron's functions were and the specific items of testimony here that has been available to me, conversations with Mr . Kean, the 10K, in respect to that.

That is not before the NASD. And even if he said what his opinion was, it wouldn't make any difference to me. It is of no probative value whatsoever in this case.

MR. HECHT: To me, what is described in the letter is very much similar to what the testimony is that has been adduced here.

THE COURT: Well, the NASD does not have the testimony that has been presented to me in this case.

MR. HECHT: That's true. It is only a two-page letter and we've been on trial now for four days.

THE COURT: All right.

Anything further?

MR. HECHT: Yes, your Honor.

BY MR. HECHT:

Q As General Counsel for the company, did you have any discussions with anyone at E. L. Aaron with respect to Rule 144?

A Yes.

Q Do you recall when you had those discussions, the first time?

A I would say the first time would be in 1972.

Q Did you call them to initiate this discussion or did they call you?

A I don't recall.

Q Do you recall who you spoke to at E. L. Aaron & Co.?

A I spoke to Edward Aaron and, I believe, Peter Aaron.

Q Do you recall what you stated to them about Rule 144 and what they stated to you?

MR. MANDEL: Your Honor, 1972?

THE COURT: Yes.

MR. HECHT: Yes.

A I don't remember the exact conversation. I know that I went over the provisions of Rule 144, and I think the germane observation that I made to them was that they should not sell any Rule 144 shares -- any shares for people under the exemption provided for in Rule 144 in any stocks in which they made a market, and I believe that it varied, but they made a market in as many as a hundred stocks, and I just felt it would be too cumbersome to try to comply with the requirements of Rule 144 with regard to being a market maker and then withdrawing from the sheets and then selling under Rule 144 and then going back into the sheets. And even as amended I felt it was a problem.

Q Now, was 1972 the year Rule 144 was initially enacted?

A I believe so.

Q Did you ever give them any advice, if someone called them and asked them to sell the Rule 144 stock, where the person was an actual or a potential customer of the company, of E. L. Aaron?

A I recall that Edward specifically asked me that question because it happened, and I advised him --

MR. MANDEL: Objection, your Honor. I think this would be irrelevant if he spoke to Eddie Aaron. What I would like to know is what his conversations were with Peter Aaron.

THE COURT: Yes.

Q Did you ever discuss this with Peter Aaron?

A I believe that the same conversation subsequently ensued with Peter Aaron, but it first occurred with Ed Aaron. The gist of the conversation was the same with both people, that is, that where they are making a market in the stock if a customer wants to sell shares under the Rule 144 exemption, that they should refer that customer to a different broker and not sell it themselves, they should tell their customer that because they are a market maker they did not want -- and solely for that reason, I was trying to help them not lose the customer by telling them that they should specifically give that as the reason, that the rule does not allow for them to sell that particular transaction, to get engaged in that particular transaction, that they should refer the customer to another broker and that they should give the customer several brokers' names, if they asked.

Q And with respect to certain low priced securities, did you discuss with them the use of brokerage houses located outside New York?

A Yes. That topic came up and I thought that was certainly a lauditory thing to do in view of the fact that the customer would then save the taxes that would be incurred if they were sold in New York.

MR. MANDEL: Objection, and I move to strike. We are back to the tax problem again.

THE COURT: No. I'll allow it.

Q And then did you speak to the Aarons about subsequently purchasing such stock as a market maker from the broker that was acting as the seller's agent?

MR. MANDEL: Objection to the form of the question, your Honor. Which stock are we talking about?

MR. HECHT: Any Rule 144 stock.

MR. MANDEL: Rule 144 stock.

A Well, I think that the gist of our conversation was -- I don't remember the exact words, but that if they were staying in as a market maker, and if the customer went to another broker and sold the Rule 144 shares, there was nothing, in my opinion, improper about them continuing in their market making capacity , and if that broker sold the shares into the open market and chose to sell to E. L. Aaron & Company that would not necessarily be a violation of Rule 144, in my opinion.

MR. HECHT: I have no further questions.

CROSS-EXAMINATION

BY MR. MANDEL:

Q You indicated in your discussions with Peter Aaron that you suggested, when E. L. Aaron & Company was making a market in stock and somebody wanted to sell 144 stock in that company, they should refer that seller to another broker, is that correct?

A That they should not sell it themselves and that it was not improper for them to direct that customer to any of several brokers; that's correct.

Q Did you suggest to them that they use the names of several brokers to the customer?

A I said that it might be appropriate, if they wanted to, to give the names of several brokers. That's correct.

Q You advised them, did you not, that it would not be improper, if that other broker then sold the stock into the open market, for them to buy it back, is that correct?

A It was my opinion that that would not be improper.

Q In your discussions with Peter Aaron, was any reference made to E. L. Aaron & Company contacting the other broker instead of the other broker selling it into the open market and coming to them?

A The rule specifically doesn't talk to that issue.

Q Just answer my question.

THE COURT: Just respond to the question.

A Well, you'll have to rephrase the question.

THE COURT: We'll have it read to you.

[Question read.]

THE COURT: Do you understand the question?

THE WITNESS: I have to think about that question for a minute.

THE COURT: All right.

[Pause.]

A Yes.

Q What was said in that connection?

A In my opinion, the rule did not talk to that question of another broker who was not the selling broker, and therefore it is my impression that the rule does not --

THE COURT: Not your impression. What was your discussion? Is this what you are telling us?

THE WITNESS: We discussed my impression, and my impression was that since the rule did not talk about other brokers, it only talked about the selling broker --

Q That is the broker we are referring to here, the selling broker.

A As I understand it, the selling broker in this case was a New Jersey broker, and we didn't talk about this specific issue, about this specific stock that is involved in this litigation; we talked generally. And we talked about what my understanding of Rule 144 was.

This is not just with Peter; this was with Eddie Aaron.

Q If you could answer that question, I would appreciate it.

A I didn't think it was improper for them to continue their market making actions --

Q You are not answering my question.

A I don't think I discussed specifically going to another broker.

Q Okay. Thank you.

A In that context.

Q Did you discuss with Peter Aaron whether or not E. L. Aaron & Co. could arrange with the selling broker, to whom they referred this selling stockholder, to purchase the stock?

A Yes.

Q And what was your discussion in that connection?

A That it was perfectly proper. If it was consistent with marketmaking actions, perfectly proper.

Q Well, what do you mean "if it was consistent with marketmaking"?

A If they were marketmakers in the stock, they could do so.

Q They could do what?

A They could do the actions that you just described in your questions. That would be proper.

Q They could go out and contact this selling broker to whom they had referred this selling stockholder?

A That's right.

Q And purchase the stock?

A That's right.

Q Did you ever discuss the specific situation of Lawn-A-Mat with Mr. Aaron, Peter Aaron?

A Oh, sure.

Q And did you discuss the sale of 144 stock, Lawn-A-Mat stock, with Mr. Peter Aaron?

A Yes.

Q How many times did you discuss that with Peter Aaron?

A I don't know.

Q Was it once or more than once?

A More than once.

Q Did you discuss it with him on the telephone or in person?

A Probably both.

Q Would you tell us what you said to Mr. Peter Aaron and what Mr. Peter Aaron said to you about the sale of Lawn-A-Mat 144 stock?

A When?

Q When did you discuss it with him?

A Frequently. There were a number of conversations.

Q Were they all on the same subject?

A My conversations with Peter Aaron are never on just one subject.

Q OK.

Why don't you tell us it conversation by conversation. What did you say to Peter Aaron and what did he say to you in your first conversation about the sale of

144 Lawn-A-Mat stock?

A I can't be exact. Maybe I'll just try and summarize that conversation.

Q Can you tell us anything you said to him and what he said to you about that?

A I can remember the gist of some of our conversations which included that, No. 1, I found out they were making a market in the stock.

I don't recall how it came to my attention.

Q "They" meaning E. L. Aaron?

A E. L. Aaron, yes.

There was a conversation about whether or not they could make a market and sell Rule 144 stock,"they" being E. L. Aaron & Co., sell Rule 144 stock for someone that had called them and asked about that.

And I again reiterated my previous instructions to them that I did not feel it was a good idea for E. L. Aaron & Co. to make a market in the stock, especially where they were a major factor in the market, and sell Rule 144 shares because Rule 144 was an experiment when it was enacted and the Commission and the NASD were really not quite clear on how they felt about it, and there had been no real testing of it in the courts.

And so I told them to try and avoid being sellers because I felt that the broker who was the seller, the agent for the owner of the stock, had a very heavy duty and I just didn't feel that they should get involved in that, if they were making a market in the stock.

Where they weren't making a market in the stock, it was a different story.

Q What other conversation did you have with Peter Aaron about the sale of 144 Lawn-A-Mat stock?

A Well, I do know that there were other conversations. I have heard the names that are involved in this litigation, the principals of the company, I think the attorney for the company, so I know there were other conversations in which names were mentioned of the Lawn-A-Mat principals.

I don't recall whether or not those were the sellers. Dorfman is a name that rings a bell, and I think you said Kean before, and I think he was the attorney for the company.

Q I would just like to know if you can recall what your conversation was with Peter Aaron, beyond what you just said.

A Can I have a minute to think?

Q Sure.

(Pause)

A Either he or Eddie Aaron told me something about the company itself, Lawn-A-Mat, and that the office in Long Island was the one that had introduced Lawn-A-Mat to E. L. Aaron, if I remember.

I think that's the office -- yes, Jacobson --

Q I just want to know about your conversations with Peter Aaron concerning the sale of Lawn-A-Mat stock pursuant to Rule 144, not just about Lawn-A-Mat.

A I think I described that to the best of my recollection.

Q That was the only conversation you had, to the best of your recollection?

A No, no. Those were over the course of several conversations.

Q Did you ever give Peter Aaron or anyone else at Aaron & Co. advice to have the principals of Lawn-A-Mat se' 144 stock to a New Jersey broker-dealer with whom Aaon & Co. already had an arrangement to purchase that stock and then resell it to its customers?

A No.

MR. MANDEL: May I have a moment, please?

THE COURT: Yes.

(Pause)

MR. MANDEL: No further questions.

THE COURT: Anything further?

MR. HECHT: Nothing further.

THE COURT: All right.

You may step down.

(Witness excused)

THE COURT: Anything else?

MR. HECHT: I just want to put Peter back on the stand on that one point that was covered in discussion but not on the record. We will be very quick. We were rushed yesterday, or I felt rushed.

THE COURT: You shouldn't have felt rushed. I said you had all the time you wanted.

PETER AARON, resumed:

DIRECT EXAMINATION

BY MR. HECHT:

Q Mr. Aaron, prior to this particular proceeding, had you ever been named or cited in any other proceeding by the SEC or the NASD?

A No.

Q Are you presently employed in the brokerage business?

A No, I am not.

Q And do you have any present intention of going back in the brokerage business?

A Let me put it to you this way: I am now currently going and working at a lucrative job. I would like to go back into the brokerage business, but if the commodity business proceeds as lucratively as it has this year, I would give second thoughts to it. But I really would like to be in the brokerage business if I had my choice.

MR. HECHT: Thank you.

No further questions.

CROSS-EXAMINATION

BY MR. MANDEL:

Q Mr.Aaron, was E. L. Aaron & Co., Inc. ever a defendant, prior to this lawsuit, in a Securities and Exchange Commission lawsuit?

A Yes.

Q Was that about 1971 or 1972, sir?

A I don't know the exact date, but probably in that time frame, yes.

MR. MANDEL: No further questions.

THE COURT: All right.

That's all, gentlemen?

MR. HECHT: That's all, your Honor. And thank you.

THE WITNESS: You may be excused.

(Witness excused)

MR. HECHT: Would you like closing statements?

MR. MANDEL: No rebuttal.

MR. HECHT: I didn't hear Mr. Hecht.

THE COURT: He says he has no rebuttal, and both sides rest.

All right.

I don't need closing statements. You are going to submit proposed findings of fact and conclusions of law. Your proposed findings of fact should refer to the page and line number which is the basis upon which you are submitting your proposed finding, and your conclusions of law should cite the relevant statutes and authorities.

You are going to agree on the summary of the depositions that you want to put in, Mr. Hecht?

MR. HECHT: I presume so. I have given them Mr. Jacobson's because he couldn't come today because of a death in the family recently, and as far as the others, they should be very, very short.

THE COURT: All right. You can present them by next Friday with your findings of fact and conclusions of law.

MR. MANDEL: May I just ask for an additional week? The same people who are trying this case are trying a case next week. May we have one additional week?

THE COURT: I will give you until Wednesday of the following week.

MR. MANDEL: Thank you, your Honor.

MR. HECHT: That would be January 26th?

I am on trial that week, too.

THE COURT: I know. I am not blaming one side or the other, but there was a lot that could have been agreed upon and stipulated in here that was not in dispute in many ways, and it is an important matter and it ought to be handled promptly and disposed of promptly.

MR. MANDEL: Your Honor, will there be an opportunity for reply briefs?

THE COURT: All right. Until Friday, the following Friday.

MR. MANDEL: Two days later, that Friday.

THE COURT: That's right, the 28th.

MR. HECHT: I'm a little confused. I thought we were both submitting on the 26th.

THE COURT: That's correct. Reply briefs by the 28th.

MR. MANDEL: Thank you, your Honor.

MR. HECHT: Your Honor, I'm on trial all that week.

Can I have over the weekend?

THE COURT: Monday morning is all right, or Monday noon.

MR. MANDEL: Thank you, your Honor.

MR. HECHT: Your Honor, thank you.

...

(Tr. 500)

WITNESS INDEX

Name	Direct	Cross	Redirect	Recross
Larry Cohen	459			
Dan Brescher	468	487		
Peter Aaron (Resumed)	495	496		

EXHIBIT INDEX

Plaintiff	Identification	In Evidence
34		458

Defendant	Identification	In Evidence
A		459
K	462	
L	472	
M	472	

PLAINTIFF'S PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW - PARAGRAPHS 50-54

VI. NEED FOR INJUNCTIVE RELIEF

50. Although P. Aaron is not currently employed in the securities industry, he presently owns unregistered stock in three private corporations [R. 315] and has also expressed a strong desire to return to the securities brokerage business [R. 496]. Thus, the danger exists that he might again have the opportunity to engage in conduct violative of the securities laws.

51. Moreover, this danger is further enhanced by virtue of the fact that prior to his activities in connection with LAM stock, he had engaged in other conduct in violation of the securities laws. Specifically, just as he did in connection with the sales of unregistered shares of LAM stock in this case, P. Aaron arranged for Aaron & Co. to purchase unregistered shares of Cardiodynamics, Inc. ("Cardiodynamics") through sham transactions effected through another New Jersey broker, Morton Kominsky & Co., Inc. ("Kominsky") [Pl. Exh. 34, Shapiro 1-2].

52. Again, as was the case with the "144" LAM stock that Aaron & Co. purchased through Weller & Co., Aaron & Co., on several occasions and in accordance with P. Aaron's instructions, purchased "144" Cardiodynamics shares through Kominsky in prearranged transactions designed to feign compliance with the requirements of Rule 144 [Pl. Exh. 34, Shapiro 1-2].

53. Moreover, during the time Aaron & Co. was effecting these transactions, the firm was also making a market and soliciting customers' orders to buy Cardiodynamics shares [Pl. Exh. 34, Shapiro 2]. Thus, these transactions, as the transactions concerning "144" LAM shares, also failed to comply with the requirements of Rule 144.

54. However, perhaps the most convincing basis for predicting that P. Aaron, unless enjoined, will again engage in conduct injurious to the investing public is the fact that P. Aaron attempted to camouflage his true position at the firm for the sole purpose of insulating himself from the effects of any possible regulatory agency action against the firm [R. 358, Pl. Exh. 34, Jacobson 2]. Thus, it is evident from P. Aaron's past conduct as well as from his future intentions that the issuance of an injunction is warranted and in the public interest.

DEPOSITION OF PHILIP SHAPIRO
PP. 6-21 and 48-49

A To Ed Aaron.

Q Anyone else?

A Peter Aaron.

Q What did Ed Aaron do at the firm?

A He was the trader of the firm.

Q Where was he during business hours?

A In the trading room.

Q Was he always in the trading room?

A Most always.

Q Did you ever have any problems with respect to any of your duties at the firm?

A On occasions.

Q What did you do when you had a problem?

A I went to Ed Aaron.

Q What happened when you went to Ed Aaron?

A A Well, some of the times he would suggest I see Peter Aaron or some of the times he would give me an answer.

"Later," he would say.

Q Why did you go to Ed Aaron initially?

A As head of the firm.

Q What did you do when you had a problem that needed an immediate response?

A An immediate response I would go right to Peter Aaron.

Q What happened when you went to Mr. Peter Aaron?

A Explained the problem and was able to give me a decision right then and there.

Q In other words, Peter Aaron gave you an immediate decision?

A Most always, yes.

Q Could you give me an example of a problem that you had while you were employed at E. L. Aaron & Co.?

A Well, problems as a registered rep, that primarily means that we would get a certain amount of stock that might be offered to us at a given price, or somebody wants to buy the stock and those things that would arise would be the problems that I would have right at the moment.

Q In other words, you might have a question as to what price to sell a stock?

A Yes.

Q Or how to acquire some stock?

A Right, right, those are the problems.

Q Can you think of a specific stock in which you might have had that kind of problem, which you did have that kind of problem?

A Cardio-Dynamics would be one.

MR. HECHT: At this time, Counsel, I would like to state for the record that the name Cardio-Dynamics is not referred to in the complaint or in any way, in my opinion, directly or indirectly involved with the present litigation, and I feel that questions asked with respect to that particular security and answers thereto could constitute prejudicial error.

MR. SCHIEREN: Counsel, your objection is noted.

I would like the record also to reflect that the Commission believes that the questions that will be asked in connection with Cardio-Dynamics are relevant to the matter at hand because they go to the issue of Mr. Aaron's position at the firm, his responsibilities at the firm and, among other things also go to the issue of the need for injunctive relief in this matter.

For that purpose the Commission will continue to ask these questions with respect to Cardio-Dynamics.

MR. HECHT: You know my position. It is very similar to the position that was enunciated at the International Shareholders case and I will adhere to it in this case throughout the proceeding.

MR. SCHIEREN: Let the record reflect, if it is agreeable to you, Mr. Hecht, in respect to all the questions that I am about to ask in connection with Cardio-Dynamics, your objection is noted.

MR. HECHT: Okay, and it is a continuing objection and if in fact they are pursued I reserve my right, obviously, to move for a dismissal based on the grounds of prejudicial error.

MR. SCHIEREN: your right is preserved.

MR. HECHT: And any questions I may ask him on cross-examination shall not be deemed a waiver in case the Judge does not agree with me.

MR. SCHIEREN: That is agreeable.

BY MR. SCHIEREN:

Q I believe before the objection, Mr. Shapiro, we were discussing some problems you had in connection with the sale, let us say, of Cardio-Dynamics stock.

Specifically what price to sell it or how to acquire the stock.

What did you do when you had a problem in connection with Cardio-Dynamics?

A I would go to Ed Aaron and after explaining what the problem was he may have -- he might refer me to Peter Aaron or might say, "I will give you an answer later."

Q Did he refer you to Peter Aaron?

A Yes, he did.

Q Did Peter Aaron give you an answer?

A Yes, he did.

Q Based on your experience at the firm, at E. L. Aaron & Co., did Edward Aaron have supervisory responsibility?

MR. HECHT: Objection to the form of the question.

You are asking him for a conclusion. Supervisory responsibility is a conclusion and you have to establish also based on his experience at the firm.

I don't know if you laid a proper foundation.

MR. SCHIEREN: Your objection is noted. I think the form is proper.

MR. HECHT: It is up to the Court.

Q Based on your experience as an employee of E. L. Aaron & Co. did Edward Aaron have supervisory responsibility?

A He did.

Q Did anyone else at the firm have supervisory responsibility?

A Peter Aaron.

MR. HECHT: I object again to the form of the question and move that at the trial the question and answer be stricken.

MR. SCHIEREN: You can raise that objection at the trial, Mr. Hecht.

MR. HECHT: While we are at it, should we work out a procedure which is common in Federal Court, that if we get Mr. Shapiro's affidavit in time, and to save time at the trial that I will list all of my objections, if you intend to read this into the record, in advance, so the Court is in the position to rule on it when you present it to the Court for reading?

I will attempt to list --

MR. SCHIEREN: Off the record.

(Discussion off the record.)

MR. SCHIEREN: On the record.

Q Mr. Shapiro, you previously testified that you sold stock to customers as part of your duties at Aaron & Company; is that correct?

A That is correct.

Q Did you ever sell any Cardio-Dynamics stock?

A I did.

Q When, during what period of time?

A I think about -- I think it is about the latter part of 1974.

Q This is while you were employed at Aaron & Company; is that correct?

A Yes.

Q Did you select this stock to sell?

A I did.

Q Why?

A It was recommended to me from one of my accounts.

Q What did you do after you decided that you wanted to sell Cardio-Dynamics?

A I got in touch with the company's

president and told him I was interested in getting the latest financials from the company, news releases, any pertinent information he had about the company because I was interested in making a market in that stock.

Q So for what purpose did you need this information?

A Well, primarily for due diligence as well as getting to know what the company is all about.

Q You are referring to a due diligence file?

A Due diligence file.

Q Did you receive this material?

A I did.

Q After you received this material what did you do?

A I showed all the paraphernalia to Peter Aaron. I suggested that he read it because this is the type of company I was interested in making a market and selling.

Q Did you discuss this with Peter Aaron?

A Yes, I did.

Q What did Peter Aaron say?

A He said he will go through it and let me know.

Q Did he in fact go through the material and let you know?

A Yes, he did.

Q What did he say at that time?

A And he agreed that we should make a market in the stock.

Q Did he say anything else?

A Well, yes, that I get in touch with the president about getting some inventory and also a stockholders' list.

Q What did you mean by inventory?

A Inventory, to have stock available for trading or retail purposes.

Q What did you do when Mr. Aaron said that?

A I contacted the company's president and told him what we were looking for.

Q What did you say, do you recall?

A Well, primarily that I was interested in getting a shareholders' list from him and interested in getting stock for inventory purposes.

Q Did you do anything else?

A And then we went in and made a market in the stock.

We started to trade the stock.

Q Did you go into the pink sheets?

A Yes, that is one of the things.

Q Did you ever have any discussions with the president of Cardio-Dynamics with respect to 144 or insiders stock?

A Yes.

Q As a result of these discussions what happened?

A He told me that there was some stock available, 144 stock available.

Q What did you do?

A And I discussed that with Peter.

Q Peter Aaron?

A Peter, Peter Aaron, yes.

Q What did you tell Peter?

A That there was a certain amount of shares, stock available at a given certain price and he thought that we should take it in but it should come through their -- through their own local brokerage house.

Q Did you ask him how this should be done?

A Yes.

Q What did he say?

A That is what he suggested, that it go through their own local brokerage house.

Q Are you referring to the person who wanted

t

to sell?

A Who wanted to sell, the individual, whoever that individual was, to sell to his own broker and the broker, in turn, would eventually sell the stock to us.

Q Did Mr. Aaron say anything to you with respect to any so-called insider who did not have his own broker?

A Yes, we -- that was one of the occasions that arose.

One of them didn't have a broker. We were to recommend one of our own local brokers out in Jersey City, that they could sell it to him and he in turn would sell it to us.

Q Let me make sure I understand.

Mr. Aaron told you what?

A That we should, I should give the name of our broker, a local broker that we do business with which I did since they didn't have their own broker.

Q Who was the local broker?

A It was Kaminsky.

Q Morton Kaminsky?

A Morton Kaminsky.

Q That is in New Jersey?

A In New Jersey.

MR. HECHT: Let the record reflect my continuing objection through this whole line of questioning.

Q Mr. Peter Aaron then told you to tell the insider who didn't have his own broker to contact Mr. Kaminsky in connection with the sale of his stock?

A That's right.

Q Did you speak to anyone at Kaminsky's?

A I did.

Q What did you discuss with that person at Kaminsky's?

A I told him that there was a certain amount, some individual who is going to sell stock, a certain amount at a given price.

Q This was Cardio-Dynamics stock?

A That's right, and he was to take it in and we, in turn, would take it from him.

Q What did you mean you would take it from him?

A Buy it from him plus a commission.

Q You mean Aaron & Company would buy it from him?

A That's right.

Q Let me make sure I understand this.

Before the customer actually came to Kaminsky you informed Kaminsky that a customer would come to him with this stock?

A That is correct.

Q And that Aaron & Company would buy it back from him?

A That's right.

Q Plus a commission?

A Correct.

Q How many times did this happen?

A Oh, about two, three times I would say.

Q Did you discuss this with Peter Aaron?

A I did.

Q Peter Aaron was aware of the fact that there was this arrangement with Kaminsky?

MR. HECHT: Objection to the form of the question.

Q You discussed the entire transaction with Peter Aaron; is that correct?

A Yes.

Q And in fact Peter Aaron told you to direct the customer to Kaminsky?

MR. HECHT: Objection to the form of the

question.

MR. SCHIEREN: What is the objection?

MR. HECHT: It is a leading question of your own witness.

MR. SCHIEREN: I am just trying to clarify the testimony.

MR. HECHT: That is exactly my point.

THE WITNESS: The question again?

Q The question is was Peter Aaron aware of the entire transaction?

A He was.

Q Including the commission agreement with Kaminsky; is that correct?

A He was.

MR. HECHT: Objection again to the form of the question.

Q How did you know to go to Kaminsky in connection with this transaction in Cardio-Dynamics stock?

MR. SCHIEREN: Withdrawn, strike that question.

Q You told the insider who did not have his own broker to sell the stock to Kaminsky; is that correct?

A That is correct.

Q Why did you tell him that?

A Because --

MR. HECHT: Objection to the form of the question.

Q Why did you tell him that?

A When I discussed it with Peter Aaron he suggested that we use Kaminsky as a brokerage house for the individual to sell their stock to.

Q Did you call Kaminsky prior to the actual sale?

A I did.

Q Why?

A To let them -- to make them aware that somebody was coming in to sell them stock.

Q Did anyone tell you to call Kaminsky?

A Yes.

Q Who?

A Peter Aaron.

Q During the time that the 144 Cardio-Dynamics stock was being sold to Kaminsky or through Kaminsky to E. L. Aaron, was E. L. Aaron making a market in Cardio-Dynamics stock?

A Yes, they were.

Q During the same period of time were you soliciting customers to buy Cardio-Dynamics stock?

A We were.

Q Were you personally?

A I was.

Q Mr. Shapiro, are you a respondent in a NASD proceeding?

A I am.

Q Do you know what you are charged with in that proceeding?

A Yes, I know.

Q What is the status of that proceeding?

A It is still pending.

Q Did the SEC make any promises to you in exchange for your testimony today?

A They did not.

MR. HECHT: One second, please.

Q Based on your experience as an employee of E. L. Aaron & Co., Mr. Shapiro, who ran the firm?

MR. HECHT: Objection to the form of the question. It asks for a conclusion.

MR. SCHIEREN: Is that the objection, that it asks for a conclusion?

MR. HECHT: It is an improper question.

A He suggested that that would be a good brokerage house to give over.

Q On cross-examination, Mr. Shapiro, you testified that Peter Aaron did not have his own office at 50 Broad Street when you moved upstairs; is that correct?

A That is correct.

Q Can you describe the offices of E. L. Aaron & Co. at 50 Broad Street?

A We had -- we -- we had a back office area.

Then we had an area for registered reps.

Then in the middle there was the trading room and from the other side of the trading room was a tremendous room for registered reps again.

Q Where was Eddy Aaron physically?

A He was in between two large areas of registered reps with the trading room and he would be in the trading room.

Q When Peter Aaron was there where was Peter Aaron?

A Generally in the trading room.

Q With Eddy Aaron?

A Yes.

Q In other words, Peter Aaron was in the same room where Ed Aaron was?

A That is correct.

MR. SCHIEREN: I have no further questions.

MR. HECHT: I have no questions.

I would like to thank Mr. Shapiro for coming here a week earlier and changing his schedule.

MR. SCHIEREN: The Commission also thanks you, Mr. Shapiro, and we can close the record.

(Whereupon, the record was closed.)

I N D E X

WITNESS	PAGE
Philip Shapiro	
By Mr. Schieren	4, 45
By Mr. Hecht	22

A Yes.

Q When did you first become aware of Lawn-A-Mat?

A When I joined -- you're talking about the stock?

Q Yes.

A When I joined E.L. Aaron & Co.

Q How, did you become aware of it?

A I was told by Norman Schreiber that he was making a market in the stock along with E.L. Aaron & Co. and that it was a growing situation.

Q What steps did you take to investigate the company at that time?

A I looked up their past earnings record. I looked up their past filings. I met with the then controller of the company. I then met with the Chairman of the Board, the president of the company and I generally spoke to other brokers about the stock.

Q With respect to the financial data where did you obtain that data from?

A From the company.

Q Did they have a special file on E.L. Aaron & Co. or file at E.L. Aaron & Co.?

A Which company? You're talking about E.L. Aaron.

Q Lawn-A-Mat. Do you recall what documents you reviewed in that connection?

A The annual reports and 10K.

Q Do you recall who you met first at the company?

A Yes. It was the controller and I can't remember his name, but he was a brother-in-law of the Chairman of the Board.

Q Would it refresh your recollection if I mentioned the name Carl Krantz?

A Exactly who I meant.

Q Do you recall where you met him?

A Yes, I do.

Q Where?

A At a restaurant in Roslyn called The Heads and Tails.

Q Who arranged this appointment?

A Norman Schreiber.

Q Do you recall when this meeting occurred?

A I have a recollection of being very cold. So, it must have been October, November, or December of that year.

Q Prior to that meeting had you personally engaged in any retail activity in Lawn-A-Mat's --

A No.

Q -- common stock? Do you recall what you said at that meeting and what Mr. Krantz at that meeting?

A In substance, but not verbatim.

Q Fine. Your best recollection is all that I can ask.

A I must backtrack in order to bring it into the meeting.

Q Fine.

A The stories came back about Lawn-A-Mat to me were, to say the least, intriguing as to the products they had and as to the potential they had and as to various other aspects of the company.

So, the meeting was arranged because I believe at that time the Chairman of the Board Mr. Dorfman was out of the country, and the meeting was arranged with Mr. Krantz. The conversation with Mr. Krantz pursued the lines of financial condition of the company and the products and/or potential products that they had.

Q Do you recall what Mr. Krantz said to you with respect to the financial condition of the company?

A Yes. He told me that the company had lost a small amount of dollars the prior year, but that there was no question in his mind that the company would be either break even or profitable in the current year that they were in.

Q With respect to the future prospects of the company, do you recall what Mr. Krantz stated to you?

A He mentioned the fact that there was an automobile under development and that there was an arrangement with an ex-partner of Mr. Dorfman who owned a plant in Joplin, Missouri and in Plainview, New York where the automobile was being developed and that they had the world's largest or second largest free forming plastic machine where they would be making automobile bodies for the car.

The automobile, by the way, was not supposed to be a competitor of General Motors or Ford or anything of that caliber or size or financial burden to the company. It was an automobile that was more or less slightly larger than an oversized scooter with the body on it.

I then asked to see the oversized scooter and the body, and they made arrangements for me to visit the plant.

Q In Joplin?

A No, in Plainview. They showed me pictures of the car. They showed me pictures of the free forming plastic machine. They showed various other materials.

Q You testified before that one of the things that led up to the meeting was stories that you had heard in connection with Lawn-A-Mat?

A Right.

Q Do you recall who you heard these "stories" from?

A Yes, I heard the stories from Norman Schreiber, initially. He told me that Dan Dorfman was at a meeting at E.L. Aaron & Co. with several other salesmen including Eddie Aaron and Peter Aaron who were at that meeting.

Q I've lost something in time frame. Was this all at the initial meeting with Carl Krantz?

A This was prior.

Q This was prior to the meeting? Okay.

A This was prior. I subsequently asked several of the salesmen and I had asked the Aarons if Dan Dorfman was ever there and if they had seen any pictures and what the story was. I received answers to the effect that he was up there and that they had heard the story and that they had seen the pictures.

Q After this meeting with Carl Krantz what was your next occasion to discuss Lawn-A-Mat, the company or the common stock with anyone at the company?

A I think it was with Mr. Dorfman when he returned from the Far East. I cannot say that this was before I spoke to Mr. Erazo or whether I spoke to Mr. Erazo subsequent to meeting with Mr. Dorfman.

Q Do you recall where you met Mr. Dorfman?

A Either at Lawn-A-Mat or in Plainview.

My recollection is that, I believe, it was in Plainview. I'm not quite sure.

Q Could this have been around April 8th?

A I think it was much sooner than that.

MR. GUSRAE: April 8th of what year?

MR. HECHT: 1974 or '75.

THE WITNESS: I think that this meeting took place, it took place in my recollection shortly after I met with Carl Krantz.

Q At the time you met Mr. Dorfman or Mr. Erazo, at that time did you engage in any retail activity in the stock?

A Yes, I had.

Q Do you recall the nature of your discussions with Mr. Dorfman and in particular what he said to you and what you said to him at that meeting?

A Yes. I questioned again the validity, the feasibility, and the practicality of his doing what he claimed that he could do. We went out to the plant. We went through the whole rigmarole. At that time, by the way, I met his ex-partner Bernard Discount. The plant out there which I believe is Stellar Industries, something like that, is a fairly large plant and an impressive looking plant. I saw various stages that the development of the car was in.

Q Do you recall what stages the car was in?

A I saw chassis, I saw bodies, I saw, I believe, one or two bodies on chassis inoperable. I was taken into a, I guess, a back room you might call it where they kept bringing out parts that were covered with dust. I then questioned whether or not the parts that they were bringing out were in effect things that they had not developed years ago. He said they were things they had developed years ago and that was I believe the first time in the conversation when Mr. Dorfman told me and I in some way missed the point of the conversation, that the point of the conversation was specifically the fact that the car or the automobile was going to be a development directly related to the first development of the tractor. That the tractor, the chassis of the tractor, that they were going to produce for Lawn-A-Mat and for sale to other companies in the field would be copied from a well known tractor in the field, I forget the name. They had expanded it width-wise on the chassis. They would then put these bodies on top of the chassis and that the transmission, rear end, and engine would be similar to the transmission, engine, and rear end of the tractor except again a little more powerful and that in essence this was all the original -- hold up for one second. There was a car, I think a Crosley car that was produced some time ago, but at that time -- that was the name I was seeking. It was similar to the Crosley car. The company that was making the tractor had in effect bought the rights or the copyrights or the production facilities of the Crosley car, that was the company that was making the tractor that they were copying.

Q Do you recall if anyone else was present during that meeting other than Bernie Discount and Dan Dorfman?

A The initial meeting? I believe Norman Schreiber was there, I'm not certain of that.

Q During the meeting was it your impression that Lawn-A-Mat was making this tractor and that Lawn-A-Mat was making this or going to produce the car?

A Definitely.

Q Did you discuss the funding of this venture?

A I did.

Q Do you recall what you said to Mr. Dorfman or Mr. Discount and what they stated to you with respect to the funding?

A I asked them where they were going to get the money.

Q What did they tell you?

A They answered me directly that the first thing which was a correction of what I had thought was that the sale of the tractor would be the funding of the automobile and that they could go to any number of tractor dealers and immediately receive orders for their tractor, because the company that was making the current tractor was despised by all the dealers in the field that they had a relationship with the dealers. They would have no problem with that. Initially, the major orders would come from Lawn-A-Mat themselves for the tractors.

Q Did they have any projections on how many tractors that they could produce that they showed?

A No. The only projections they had by inference was the number of Lawn-A-Mat dealers that they had, the age of the tractors in use, the potential of whether it's Lawn King or any other garden outfit using motorized equipment.

Q Had you ever met Dan Dorfman before that meeting?

A Not to my knowledge.

Q Did you know anything about him before this meeting other than that he was the Chairman of the Board of Lawn-A-Mat?

A No.

Q You referred before to a meeting with a Mr. Erazo. Do you recall where that meeting took place?

A I believe at Lawn-A-Mat, I'm not sure.

Q Was that about the same time you were at the factory, either the week before, or the week after?

A I think substantially afterwards. I'm not sure of the time, now.

Q Do you recall what that meeting was about?

A He told me, I believe, at that meeting, he told me at a meeting that I had with him and I'm not sure whether it was the first meeting or the second meeting that he was in total control of the company, and that Mr. Dorfman had nothing to say in the company and that the car in effect did not exist and that Lawn-A-Mat did not-- was not manufacturing the car.

Q Did he accuse you at that meeting of lying about the company franchise dealers and things like that?

A No, not at our first meeting.

Q Do you recall approximately when this first meeting was in 1965 like whether it was January or February or March?

A I'm sorry, I don't.

Q What did you say to Mr. Erazo in response to his statement that there was no car and that there was no this and that there was no that?

A I checked back with the Chairman of the Board which was my first inkling that there was some type of -- or that there was going to be some type of an inner corporate fight.

Q Did you get the impression that Mr. Erazo and Mr. Dorfman did not get along?

MR. GUSRAE: I object to that question. Impressions are not what we are interested in.

Q Was it your impression that Mr. Erazo and Mr. Dorfman were having disagreements at that time?

MR. GLOBERMAN: The time he was referring to? What's the time frame?

MR. GUSRAE: He doesn't recall.

MR. HECHT: He didn't recall when it was.

MR. GLOBERMAN: Can we find out if it was in the winter, the summer, the spring?

MR. GUSRAE: He can't recall.

MR. HECHT: I went through it by months. Maybe as we get on with the testimony he may be able to remember.

Q May I suggest that we leave a blank in the record and when you recall when this meeting with Mr. Erazo was you will fill it in?

A Yes.

Q As a result of this you said --

MR. GUSRAE: There is a pending question, was it your understanding that Mr. Erazo and Mr. Dorfman were not getting along at the time of your first meeting with Mr. Erazo.

THE WITNESS: No.

Q After the meeting was that your impression?

MR. GUSRAE: Not impressions.

MR. HECHT: Understanding.

MR. GLOBERMAN: When after that meeting?

MR. HECHT: Immediately after the meeting.

A I didn't have an understanding after that meeting.

Q Did you then go back and check with Mr. Dorfman with respect to the tractor and the car?

A Yes, I did.

Q Was that by telephone or in person?

A I think I went by automobile immediately to see Mr. Dorfman.

Q Where was he at the time?

A In Plainview.

Q Do you recall what he said to you and what you said to him?

A Yes.

Q Would you please state that?

MR. GLOBERMAN: Can we just clarify where in Plainview? It's a big place.

THE WITNESS: Street?

Q Was it the factory that you went to before?

A The same factory, Stellar Industries, I'm sorry. Would you repeat the question?

MR. GUSRAE: What was your conversation with Mr. Dorfman?

A (Continuing) That the president of the company denies any knowledge of automobiles, tractors, and Lawn-A-Mat's participation in it, et cetera, et cetera. His answer to me was that Mr. Erazo was hired to grow grass and to make sure the grass was green and that it was not his function to know about every corporate development, acquisition or otherwise until it was somewhat finalized by himself and that he was Chairman of the Board of Directors and had voting control of the corporation and if need be Mr. Erazo could be or would be replaced.

Q Do you recall anything else that was stated to you at that meeting?

A Not really, just a rehashment of everything that had gone on before.

Q Do you recall if anyone was present at that particular meeting?

A I believe Bernard Discount was there.

Q Did he say anything to you at that meeting?

A He affirmed what was told to me by Mr. Dorfman.

Q At either of these first two meetings with Mr. Dorfman did they discuss with you an option by Lawn-A-Mat to purchase Stellar Industries and related entities at these first two meetings?

A At the first two meetings it was my understanding, I believe, at the first two meetings that Lawn-A-Mat owned the Joplin, Missouri plant and was in negotiations and I could talk to their attorney as to what stage the negotiations were in and that there was a prior split up between Discount and Dorfman. Now, they were hunky dory again and all I had to do was to make a phone call to check it out.

Q Do you recall if they furnished you with the name of the attorney?

A Yes, they did.

Q What was his name?

A Milton Kean.

Q Did you call Mr. Kean?

A Yes, I did.

Q Did you call Mr. Kean on the telephone?

A Yes, I did.

Q Do you recall where his office was or did you call him at home?

A On 42nd Street.

Q Do you recall what you said to him and what he said to you?

A In paraphrasing I asked him if negotiations were going on for Lawn-A-Mat to purchase the Joplin, Missouri plant. I asked him if there was in actuality a break up between at one time Discount and Dorfman. He told me that there was all types of litigations that were transpiring. It was a major company -- I think Republic Corporation was involved in this, and that in effect what Mr. Dorfman had told me was fact.

Q Did Kean ever say to you that Lawn-A-Mat was not producing a car?

A Ever or at this conversation?

Q At this conversation?

A No, he did not.

Q Did he advise you that Lawn-A-Mat was not producing a tractor?

A In this conversation he did not.

Q In this conversation did he advise you that Lawn-A-Mat did not have the financial capability to produce these particular items?

A Not in this conversation. This conversation was a specific conversation relating to the fact as to whether or not certain litigation was being resolved where Lawn-A-Mat would in effect own Stellar Corporation and the Stellar Corporation comprising the Joplin, Missouri and Plainview, New York plants.

Q During that conversation did he discuss with you a company called Coinmeico, does that ring a bell?

A I never heard of it.

Q During that conversation did he discuss the company with you known as Millcount Realty?

A Not that I recall.

Q Or a company known as Star Plating?

A Not that I know of.

Q During that conversation did he discuss with you a company entitled Triden Tool Co.?

A Not that I recall.

Q Of a company and a vendor known as Trilam?

A Not that I recall.

Q Do you recall when that phone conversation was with Mr. Kean?

A I can't give you a month or a day. It was subsequent -- I would say almost within a day or two after my meeting with Dan Dorfman.

Q If I understand you correctly when you came with E.L. Aaron it was in the latter part of 1974, the fall of 1974?

A That's correct.

Q Do you recall if this was in the first months that you were with E.L. Aaron & Co.?

A I would think so.

MR. HECHT: Off the record.

(Discussion off the record.)

Q Do you recall your next meeting with anyone associated with Lawn-A-Mat or a phone conversation?

A I would say that during the course of my relationship with the Lawn-A-Mat stock I probably had anywhere from two to five hundred telephone conversations with any one of the principals or employees of Lawn-A-Mat Corporation, and to try to recall or recollect the specific conversations as related to your question would be rather difficult.

Q Do you recall a meeting or a telephone conversation with Fred Erazo and possibly with other people present where Mr. Erazo complained to you about making improper representations with respect to the company's franchisees?

A I recall the following set of circumstances, that I would rarely speak to Mr. Erazo, his secretary would be the one that would call from time to time and tell me the things that Dan Dorfman and I or Norman Schreiber were doing that were wrong.

Q When, to the best of your recollection, when was the first such call?

A I don't recall.

MR. HECHT: Let the record reflect that I'm handing the witness a photostatic copy of the letter dated February 11, 1975 and addressed to Mr. Norman Schreiber.

MR. GUSRAE: Is there a pending question?

MR. HECHT: No.

Q Have you read that letter?

A I just did.

Q Were you shown a copy of that letter by Mr. Schreiber at about that time?

A I think so.

Q Did you discuss it with Mr. Schreiber?

A I discussed it with Mr. Dorfman.

Q With Mr. Dorfman?

Do you recall what you said to Mr. Dorfman and what he said to you?

A I read the letter to Mr. Dorfman and he said to me that it was just Erazo's way of covering his ass. That again Erazo was hired for the purpose of growing grass and keeping it green.

He had nothing to do with any of the potential acquisitions or developments of Lawn-A-Mat.

Q Did Mr. Dorfman say anything to you with respect to Mr. Erazo's statements in the letter that everything had to be cleared through him?

MR. GUSRAE: Wait a minute.

Q (Continuing) His statement to that effect?

MR. GUSRAE: The statement is actually "I want to know beforehand what information is going to be --"

A I will answer the question as I answered it before that I was told that Mr. Erazo did not necessarily have to know everything that went on other than growing grass and keeping it green.

Q Prior to that letter do you recall any communications with Nina Lane regarding your telephone contacts who paid what?

A I don't recall specifically talking to Mr. Kean about anything relating to that, but I did talk to Mr. Dorfman relating to this. Again what the percentage was, I don't remember.

Q Do you recall a meeting out in Plainview in the beginning of April which was attended by Mr. Dorfman, Mr. Erazo, and possibly other people where there were discussions concerning your contacting dealers and franchisees of Lawn-A-Mat?

A I don't believe I was present at that meeting, I'm not certain.

Q Do you recall Mr. Erazo ever telling you to stop making what he considered false and misleading representations to the dealers or franchisees or general public with respect to Lawn-A-Mat?

A Mr. Erazo?

Q Yes.

A I never had any telephone conversations with Mr. Erazo pertaining --

Q How about personal meetings?

A -- pertaining to this subject.

Q How about personal meetings?

A I had a personal meeting on two occasions.

Q What's the first occasion?

A The first occasion goes back now to the primary investigations of Lawn-A-Mat. If I neglected to bring it up before it's because it just came to mind. I sat with Mr. Schreiber in Mr. Erazo's office and I believe the time frame is prior to meeting Mr. Dorfman, but soon after meeting Mr. Krantz in Roslyn. The conversation was as to the viability of Lawn-A-Mat insofar as earning dollars. Mr. Erazo said to me that he was very happy that somebody was finally taking an interest in the stock, because he as you must know he has some, I believe, 100,000 shares of stock and an option to buy X number of shares and it would be to his benefit of course if the stock is sponsored. The price would go up and there would be interest generated in the company. I pointed out to him that the interest in the company from my standpoint was not the fact that the stock would go up but that I might have mergers and acquisitions for Lawn-A-Mat, and if the price of the stock might go up he might be able to use that as a negotiating tool. He fully understood it. He liked the idea that there was the sponsor in the stock. He liked the idea that there was an active interest in the stock. That was the first meeting that I had with Mr. Erazo.

Q Let's go to the second meeting.

A The second meeting with Mr. Erazo? He invited me out to lunch and we sat down and we went through all the niceties and he proceeded to tell me what a bad guy Dan Dorfman is and Bernard Discount is and that in effect nothing whatsoever existed along the lines that Dan Dorfman and Bernard Discount had suggested to me that did exist.

Q Do you recall if anyone was present at that meeting such as Milt Kean or Dan Dorfman?

A No.

MR. GUSRAE: What is that meeting? Read back the last answer.

(Record read.)

MR. GLOBERMAN: Please read back the record.

(Record read.)

Q Did you tell Mr. Erazo that you had seen the facilities and the cars and the tractors?

A Yes, I did.

Q What did he say to you in response?

A They don't exist.

Q Did you ask him to go out to the plant and look at the car and the tractor?

A Yes, I did.

Q What was his response?

A That he would do so.

Q Do you know if he subsequently went out to the plant?

A I believe he did.

Q Did you accompany him?

A No, I didn't.

Q How did you find out that he subsequently went out to see the plant?

A I had spoken to Dan Dorfman.

MR. GLOBERMAN: What plant?

THE WITNESS: The plant in Plainview, Stellar Corporation.

Q During those conversations did he ever describe to you any inter-relationship between Stellar and Lawn-A-Mat?

MR. GUSRAE: Who is "he"? Dorfman or Erazo?

MR. HECHT: Erazo.

A I don't remember at what conversation, which conversation, the fact that Lawn-A-Mat had an option to purchase the Stellar Corporation including Plainview and Joplin came up but it seems to me that it was at the time that it did happen, it appeared that it was a direct about face as to what Dorfman and Discount had told me. I think it was at a later period in time.

Q During that meeting with Mr. Erazo --

A You mean the lunch meeting?

Q -- did he tell you that he had heard or he had received complaints from the dealers with respect to your telephone calls or Norman Schreiber's telephone calls?

A I don't believe so.

Q Do you recall approximately when that luncheon meeting with Mr. Erazo was?

A I don't.

Q After that meeting did you call anyone at the company?

A Dan Dorfman.

Q Within a day or the same day?

A I would say I called him the same day. Whether I spoke to him the same day or on a subsequent day if he was out of town or not, I don't know.

MR. GLOBERMAN: The same day as what?

THE WITNESS: My luncheon meeting.

Q Do you recall what you said to Mr. Dorfman and what he said to you?

A Again, it was rehashing the same set of events that had taken place on previous occasions that Erazo was hired to grow grass and keep it green.

Q After that phone conversation who did you believe?

MR. GUSRAE: I object. It is immaterial what he believes.

MR. HECHT: No, it isn't.

MR. GUSRAE: I believe it is immaterial.

MR. HECHT: This is discovery. Let me ask him what his belief is.

MR. GUSRAE: I'm instructing the witness not to answer.

Q After you spoke to Dan Dorfman do you recall when your next contact with anyone at the company was or their attorney Milton Kean?

A I can't give it to you in a time frame, but as I said before there were probably anywhere between two and five hundred telephone calls during my association with Dan Dorfman and I would think it's a conservative number.

Q You say you were on top of the company?

A That's correct.

Q When do you recall in your mind was the next significant contact with Lawn-A-Mat, something that sticks out in your mind that is important?

MR. GUSRAE: Could we go off the record?

(Discussion off the record.)

A The apparent growing feeling that there was a definite inner quarrel and fight between Dan Dorfman and

Bernard Discount on one hand and Nina Lane and Fred Erazo on the other hand.

Q When you got this feeling did you call anyone at the company?

A Well, it wasn't a feeling that just hit me all of a sudden, it was a feeling that was growing and my conversations with Dan Dorfman also related to this feeling and this basically goes back to my previous answers.

Q Do you recall a meeting with Mr. Fredo, Dan Dorfman, and a Mr. Essner with respect to the Servo Corporation or the Servo acquisition?

A It is Alfredo, I believe. I had a meeting with Mr.Alfredo with respect to the Servo Corporation. I was referring to Erazo as Alfredo.

Q Let me rephrase it that way. You testified before that one of your specialities was mergers and acquisitions?

A Correct.

Q Did you bring any mergers and acquisitions to the attention of Lawn-A-Mat?

A Yes, I did.

Q Would you please name which corporation?

A Servo Corporation, Servo Systems.

Q Could you describe how you met Servo Systems?

information as to what they did.

Q At that meeting did Mr. Alfredo evidence an interest in working out something with Lawn-A-Mat?

A Definitely.

Q Do you recall what the nature of his statements were in that regard?

A The financial statements?

Q No, the statements.

What did he say to you with respect to that?

A Please pursue any merger or acquisition. I informed him that a finder's fee would be due from the seller meaning himself. He told me that he would prefer to have it the other way, but that that would not be an obstacle in any merger or acquisition that might occur.

Q So, it was your understanding that he would be the selling company?

A No, that's not what I said that if the merger or acquisition would take place between Lawn-A-Mat and Servo Corporation, Servo Systems.

Q Who would be the survivor of such acquisition?

A In my conversation --

MR. GUSRAE: At this discussion was anything said as to which company would survive?

THE WITNESS: I was talking from the

aspect that Lawn-A-Mat would be the surviving corporation. We did not necessarily have any conversation pro or con to that.

Q At that meeting with Mr. Alfredo what was said with respect to the continuation of these discussions?

A The next meeting, I suggested that the next meeting should be set up between somebody from the company meaning Lawn-A-Mat and himself.

Q So, what did you do next?

A I placed a call to Dan Dorfman who was out of town at that time. I then thought the interest warranted me to contact Mr. Erazo which I did. I don't really recall whether I spoke to Mr. Erazo or to Nina Lane. On many occasions when I tried to reach Mr. Erazo I never got past the secretary. I subsequently sent the financial statements and a letter handwritten to Lawn-A-Mat stating the terms and conditions under which I would be entitled to a finder's fee if such a merger or acquisition took place.

Q Do you have a copy of that handwritten letter?

A No, I don't believe I do.

I think it was thrown out.

Q Do you know who you sent it to?

A I sent it to the attention of Mr. Erazo.

Q Did Mr. Erazo or anyone from the company respond to your letter?

A I didn't get any response for a period of time. I then called and spoke to Mrs. Lane. She told me that Mr. Erazo was a very busy person and within that time frame Dan Dorfman had returned. I spoke to Dan Dorfman. He told me that I was wasting my time with them and that he was the person to deal with. I called Nina Lane and asked her to return whatever I sent to her and she did with a cover letter of some type. I don't recall what it said.

Q After Nina Lane returned that information did discussions continue with respect to a potential merger between Servo and Lawn-A-Mat?

A Yes, it did.

Q Who particupated in these discussions?

A Dan Dorfman, Joe Alfredo, and myself.

Q Do you recall when those discussions occurred?

A Some time after the return of the letters to me. Dan Dorfman and I went and met Mr. Alfredo, I believe, at the Westchester Country Club.

Q Did a Mr. Essner accompany Mr. Dorfman?

A No.

Q Do you recall what was said by the parties at those discussions at the Westchester Country Club?

A The general conversation was that there was a definite interest in one of two things. One being a merger-acquisition or two being the institution of Servo Systems using the product or products whether mechanical or organic of Lawn-A-Mat.

Q Was it your understanding that at the conclusion of those discussions that there was still an interest between the two companies working something out?

A Definitely.

Q Do you recall what happened next after that meeting?

A Well, there were a few conversations between Dan Dorfman and myself on the one hand and Joseph Alfredo and myself on the other hand.

Q Do you recall what the substance of those conversations were?

A The further pursuit of any terms of understanding between both companies as to mergers or acquisitions.

Q Did you discuss with them at that time your finder's fee in your letter, your written request for a finder's fee?

A With whom?

Q With Mr. Dorfman and Mr. Alfredo.

A Yes.

Q What did you say with respect to that?

A I said to Dan Dorfman that I had received -- this is not necessarily in sequence.

Q I understand that.

A But I had told Dan Dorfman that everything that I sent to Fred Erazo was returned to me and that, of course, I would be interested in having a finder's fee and that was the purpose of it. He told me that there would be absolutely no problem. I asked him to please sign the letter. He said he would have to consult counsel before he would sign the letter. I said fine.

Q What happened after those conversations you just talked about between yourself, Mr. Dorfman and Alfredo. Do you recall the next event relating to Servo and Lawn-A-Mat?

A The next event was a non-event in which just nothing of substance continued forward.

Now, that's --

Q Continue.

A (Continuing) Over a protracted period of time. It is not in a time frame of two weeks or three weeks.

MR. HECHT: Let the record reflect that I'm handing the witness a copy of a letter dated

July 29, 1975 from Milton Kean to the witness.

Q Now, with respect to the time frame that we've been talking about when would you say this letter was received by you if it was received by you?

A The letter is dated July 29th?

Q Right.

MR. GUSRAE: Did you ever receive it?

Q Did you ever receive it?

A Yes, I did.

Q Is this during the period that you were discussing things with Mr. Dorfman and Mr. Alfredo or is this during the "protracted period of silence" that you were talking about before?

A I would say that the latter would be true.

Q After you received this letter did you discuss this with anyone at E.L. Aaron & Co.?

A Norman Schreiber.

Q Did you discuss this letter with Dan Dorfman?

A Yes.

Q What did you say to him and what did he say to you?

A In effect that he didn't understand the position of Milton Kean at that stage in time and that he suggested that we all have a meeting. I don't remember if he suggested it or I suggested it, but it was a suggestion that we do meet with Milton Kean, Freddie Erazo, Norman Schreiber, himself, and myself.

Q Do you recall if there was such a meeting?

A There was.

Q Was that meeting on August 12th at the company?

A I don't recall. What was that?

Q Was that meeting at the company's premises?

A No. That meeting was at Milton Kean's offices.

Q Do you recall who was present at that meeting ?

A Milton Kean, Fred Erazo, Dan Dorfman, Norman Schreiber, and myself.

Q Would you say that meeting was within a week or two after receiving this letter?

A I would think so.

Q Do you recall what was said at that meeting by Mr. Kean?

A That in effect that there were no mergers going on or acquisitions or consolidations.

Q What was said at that meeting by Dan Dorfman?

A We're talking with them.

MR. GUSRAE: We're talking with whom?

Q Who do you mean by "them"?

A We meaning Lawn-A-Mat are talking with them meaning Servo Systems.

Q Did Dan state that it was his belief that it was worth pursuing?

A Yes.

Q Do you recall if Mr. Erazo was present at this meeting?

A I believe he was.

Q What did he say with respect to this?

MR. GUSRAE: If anything.

Q If anything.

A I don't think he did.

Q Did anyone state at that meeting that Dorfman should not pursue this acquisition or that you should not pursue this acquistion on behalf of Lawn-A-Mat?

A I don't recall that being said to me.

Q What was your understanding at the conclusion of the meeting that you testified to with respect to a possible merger or working arrangement between Servo and Lawn-A-Mat?

A That there was no reason to terminate any negotiations.

Q What steps did you take after that meeting with respect to negotiations between Servo Systems and Lawn-A-Mat?

A By this time the discussions about mergers and acquisitions with Servo Systems had sort of wound down to a non-event, as I told you, and there was no particular reason after this meeting to call Mr. Alfredo and say let's continue or let's discontinue. It was just an on-going conversation. I had developed a relationship with Mr. Alfredo aside from Lawn-A-Mat. So, we would talk from time to time and we would -- the name of Lawn-A-Mat would come up from time to time.

Q Was it your understanding after that meeting that there was still a possibility of an acquisition or a merger between the two companies?

A Absolutely.

Q Do you think it was a good possibility?

A On a scale of ten I would say seven.

Q Did you think it was a natural merger?

MR. GUSRAE: I object. Again, you're getting into his belief and that's immaterial.

Q Before you testified with respect to going out and looking at the facilities of United Stellar and the tractor and the car and that you met Mr. Dorfman. Did you have any subsequent visits to that facility?

A I would say that in my relationship with Dan Dorfman and Bernard Discount I probably was at that plant no less than fifty times.

Q Was there any doubt in your mind that Lawn-A-Mat had the potential to produce that car?

A There was doubt originally, there was no doubt subsequent to the conversation that I had with them that the car's financing would be done through the sale of the tractors and then at a later dated the reaffirmation of the financing for the automobile came when Mr. Dorfman told me that there was no problem in financing the automobile overseas.

Q Did he describe the nature of this overseas financing to you?

A Far East.

Q How much detail did he give you on this?

A Not in too much depth, but he told me that he was very active in a jewelry business in the Far East and that one of his pursuits along with going to purchase various jewelry pieces and jade, et cetera was to line up the financing for the automobile.

Q During this entire period were you engaged in the retail sale of Lawn-A-Mat's common stock?

A Yes, I was.

Q Do you recall approximately how many persons you sold the stock to?

ever on your own initiative calling anyone at the main office E.L. Aaron & Co. to discuss those complaints?

A No, I don't think so.

Q Do you recall at any time anyone from E.L. Aaron & Co. calling you that it had come to their attention that there were complaints?

A Yes.

Q Who did you receive the calls from?

What were the names of the people, if you recall?

A Either Eddie Aaron or Peter Aaron.

MR. GLOBERMAN: Can you go a little bit slower?

(Record read.)

Q Do you recall how many calls you got from Eddie Aaron?

A One or two.

Q Do you recall what Eddie Aaron stated to you and what you stated to him?

MR. SCHIEREN: Could you try to establish a time period?

Q Do you recall when Mr. Aaron called you?

A No, I do not.

Q Would you say it was in the beginning of the year, the Spring of the year or the Summer of the year?

A I do not recall.

Q Do you recall what he said to you and what you said to him?

A When I called my office Norman Schreiber told me that he had received a call from Eddie Aaron who had in turn received a call from Milton Kean and that Milton Kean had said something to the effect that E.L. Aaron & Co. is misrepresenting or making certain statements that were not true.

Q Did you deny that you were making those statements to Mr. Aaron?

A I subsequently called Mr. Aaron and told him that.

Q Mr. Aaron being Eddie Aaron?

A Eddie Aaron. I told him that I was not making misrepresenting statements and to the best of my knowledge Norman Schreiber was not making any misrepresentations. Again, to clarify, my time in the office was at a minimum.

Q Now, you said there might have been more than one call. Do you recall if there was another call from Mr. Edward Aaron with respect to any complaints?

A I believe I spoke, I believe there was another complaint. I'm not quite sure, again. It was from Mr. Kean and I believe that at that time I had spoken to Peter Aaron.

Q Do you recall stating to Peter that you denied that there was anything wrong with the way you were handling the business?

A Peter asked me what statements were being made.

I told him the statements that were being made. I told him that these statements were out of the mouth of Dan Dorfman and Bernard Discount. He just said okay.

Q Do you recall the United Stellar public offering?

A No, I don't.

Q Do you recall that at one time E.L. Aaron & Co. intended to underwrite a public offering with respect to United Stellar or Lawn-A-Mat?

A That I do recall.

Q Do you recall approximately when that was?

A No.

Q Okay. Did you participate in the negotiations between E.L. Aaron and United Stellar, Dan Dorfman, or Lawn-A-Mat, whoever it was with respect to this letter of intent?

A I participated with Dan Dorfman and Bernard Discount and Peter Aaron and his attorney at that time, not Bert, but another attorney he was using.

Q Does Dan Brescher ring a bell?

A Dan Brescher? In fact, we signed -- or

E.L. Aaron had signed a letter of intent to do a public offering on United Stellar Corporation, but -- I'm sorry, not United Stellar, but Stellar Tractor Corporation, I believe that was the name.

Q At that time did Mr. Dorfman advise you that Lawn-A-Mat had an option to purchase all the stock of Stellar Tractor?

A That's correct. Well, you're saying at that time, I don't know if it was at that time, but I was informed during that period in time that I told you about before that there was a switch from Lawn-A-Mat owning United Stellar or Stellar Tractor or whatever it was. It was now a switch where Lawn-A-Mat now in effect had an option to buy Stellar Tractor or United Stellar for some number of shares of Lawn-A-Mat stock.

Q Then this proposed public offering was discussed, is that right?

A You're putting it into a sequence and I'm not.

Q That's what I'm trying to clarify.

A Okay.

Q As a result of this letter of intent were you aware that E.L. Aaron was paid some up front money?

A Yes.

Q Do you know how much it was?

A $5,000.

Q Did you get any portion of that?

A Fifty percent of that.

Q Did you refund any portion of that to Dan Dorfman or United Stellar?

A No, I did not.

Q To your knowledge, do you know who paid that $5,000 check to E.L. Aaron & Co., if you know?

A I believe --

MR.GUSRAE: If you don't recall, you don't recall.

THE WITNESS: I don't know if I don't recall. I'm trying to think. I don't remember. Somebody made out a check in total and a part of that check was given by the other party. I'm not quite sure what the sequence was.

Q Now, to get back to the conversation you testified to before with respect to Peter Aaron. If you can recall and I hope you can would that be before or after this letter of intent in the sequence of events?

A You're talking about what conversation with Peter Aaron?

Q With respect to the complaints.

A Complaints?

Q About the common stock?

A I would say before.

Q During that conversation --

MR. GLOBERMAN: We just established a time period. Your conversation with Peter Aaron came before the letter of intent?

THE WITNESS: I believe so.

Q During Peter Aaron's call you had testified before that you went over with -- Peter asked you what statements you had made and you told him during that conversation -- did you tell him that you had gone out and you had seen the facilities and you had seen the car and you had seen the tractors?

A I didn't have to say that because Peter knew it. Peter and I had met for dinner on several occasions. Peter knew that I was basically on top of the situation and he knew what statements were coming. There was no reason to say if it was the first conversation that this had happened. It was an ongoing conversation so to speak or an ongoing relationship between Peter and myself.

Q At the end of your conversation with Peter did Peter tell you to contact Milton Kean and straighten this out ?

A I don't think so, no.

Q Do you recall if you called Milton Kean after you spoke with Peter on this?

A I don't believe I did.

Q Do you recall --

A You're referring specifically to this telephone conversation?

Q Right.

A I don't believe I did.

Q Did you discuss this telephone conversation with Norman Schreiber?

A Probably.

Q Other than that conversation do you recall any other conversations with Peter Aaron with respect to complaints as to retail activities in the Lawn-A-Mat common stock?

A I think there were other conversations. I can't be exact or specific in time as to what the conversations were.

Q Was there one other conversation or two other conversations?

A I would think at least one other conversation.

Q Do you recall whether that was before the conversation you just testified about or after?

MR. GUSRAE: Now, you've lost me.

MR. HECHT: We're talking about the fact he spoke to Peter and they went into a conversation about what representations he made et cetera. Now, he says he recalls another conversation, possibly another conversation with Peter. I want to go into that.

Q Do you recall whether that was before this particular conversation which you've just testified to or after?

MR. GUSRAE: Again you've lost me.

A I can't give you a time reference, I'm sorry.

Q Do you recall what the substance of that conversation was?

A Basically the same as I've been telling you.

Q Other than those two conversations can you recall any other conversations between you and Peter on this subject?

A You're assuming that there were only two conversations. I'm not sure that there were only two conversations. I said there might have been more than one conversation.

Q Did you discuss any of these conversations with Norman Schreiber?

A Yes.

Q Do you recall what you said to Norman and what he said to you?

A Naturally, he was upset over the complaints from anybody and he would constantly ask what Norman was saying on the telephone. I pretty well assured him that he was not saying anything other than what we were told by Dan Dorfman.

Q When you talk about you and Norman together were you in the Long Island office of E.L. Aaron?

A That's correct.

Q Were you the only two people in that office?

A Except for people, part-timers that would come in occasionally.

Q Would it be a fair statement to say that Edward Aaron and Peter Aaron were in the main office in New York?

A They were.

Q To your knowledge, was Norman Schreiber a registered principal of E.L. Aaron & Co.?

A Yes, he was.

Q To your knowledge, was Eddie Aaron a registered principal of E.L. Aaron & Co.?

A Yes, he was.

Q Was Peter Aaron a registered principal of E.L. Aaron & Co.?

A In what contect?

Q You were registered as a registered rep?

A Yes.

Q With the NASD?

A Yes.

Q Have you studied for the registered principal's exam?

A With E.L. Aaron & Co.?

Q Or prior thereto.

MR. GUSRAE: Wait a second.

Q Do you know the difference between a registered representative and a registered principal?

A Yes, I do.

Q You were a registered rep?

A Yes.

Q Mr. Schreiber was a registered principal?

A That's correct.

Q What is the difference between the two?

A He was in charge of the office.

Q Now, to your knowledge, you've testified that Norman Schreiber was a registered principal?

A That's correct.

Q You've testified that to the best of your knowledge Edward Aaron was a registered principal of E.L. Aaron

& Co.?

A That's right.

Q To the best of your knowledge do you know if Peter Aaron was a registered principal of E.L. Aaron & Co.?

MR. GUSRAE: If you know.

THE WITNESS: I want to talk with you for a second.

(Brief recess.)

A I know he was not a registered principal of the company.

Q What is the basis of your knowledge?

A He told me.

Q Before you were employed at E.L. Aaron & Co. where were you employed?

MR. GUSRAE: Wait a second. Let's go off the record.

(Discussion off the record.)

MR. HECHT: I'll take counsel's advice and rephrase it and approach it from another angle.

Q How did you first become aware of E.L. Aaron & Co. as a prospective employer?

A Through Norman Schreiber.

mentioned before.

When questioned this Dan Dorfman told me to call the corporate attorney. This is probably the first conversation I ever had with Milton Kean.

Q Did you ever inquire as to what the litigation was?

A In an overall way, not specifically.

Q Do you recall what it was?

A I knew that it had something to do with the Republic Corporation and that they had sold the plant to Republic and they were trying to buy it back, and there was a lot of litigation.

Q Do you know who owned Stellar?

MR. GUSRAE: That question has been asked and answered several times.

MR. GLOBERMAN: On the contrary. The question was as to do you know who owned Stellar I never asked him that question.

MR. HECHT: I'd like to object to the form of the question because ownership can take more forms than outright ownership.

MR. GLOBERMAN: Let him answer. -- I'll withdraw the question.

Q Did Mr. Kean ever advise you that Lawn-A-Mat was not building a car or tractor?

A Yes.

Q Did he advise you of that more than once?

MR. GUSRAE: He's already testified to that more than once.

MR. GLOBERMAN: He can answer the same question again.

MR. GUSRAE: It's not cross-examination in court, you're at an EBT.

MR. GLOBERMAN: I can ask the same question.

Q Did he advise you of that more than once?

A I believe so.

Q Did Mr. Erazo ever advise you that Lawn-A-Mat was not building a car or tractor?

A Yes, he did.

Q Did he advise you of that more than once?

A I don't believe so.

Q Only one time?

A I believe so.

Q Did Mr. Erazo write you letters regarding the car?

MR. GUSRAE: That's been asked and answered and it's in the motion papers before the SEC.

A I'm sorry, I take that back. The letter is not addressed to Mr. Jacobson.

Q You saw that letter, though?

A That was addressed to Mr. Schreiber.

Q But you saw that letter?

A Yes, I did.

MR. HECHT: It says nothing about the car in the letter -- oh yes, there is, I'm sorry.

Q Did Mr. Erazo ever call you and ask you to stop making misrepresentations to customers of E.L. Aaron?

A I don't believe he ever called personally. I don't recall his calling me personally.

Q Do you know if he ever called Mr. Schreiber?

A As I said before, I think that the conversations that went on between the main office Lawn-A-Mat and the Long Island office of E.L. Aaron were between Nina Lane and Norman Schreiber.

Q You testified earlier that there was some discussion between individuals of Servo Industries Corp. and individuals of Lawn-A-Mat, is that correct?

A Yes.

Q To what stage did those discussions proceed?

MR. HECHT: Objection to the form of the question.

MR. GUSRAE: If you know.

MR. HECHT: I object to the form of the question. What did he mean by "to what stage"?

Q How far did the discussions proceed?

A I think that there was a basic meeting of the minds between the two individuals, namely Dorfman and Alfredo and that they would merge or be acquired. The only thing that was left up in the air, so to speak, would be the amount of stock exchanged, but I think there was a basic desire on both of their parts to do something.

Q Mr. Erazo told you that Lawn-A-Mat was going to get the exclusive rights to distribute Rainbird Fertilizer?

A That's correct.

Q Mr. Erazo told you that Rainbird was a fertilizer company?

A Yes.

Q You testified earlier that Peter Aaron called you and said that Kean had called him and that he had received complaints, is that correct?

A I don't believe so.

MR. GUSRAE: I don't believe that was his testimony.

Q Explain it to me.. Peter Aaron called you, is that correct?

A Eddie called Norman Schreiber when he checked in with the office. Norman Told me that Milton Kean had called Eddie Aaron about certain proposed misrepresentations that were being made about the stock.

Q You never received a call from Peter Aaron in that same context?

MR. HECHT: I object to the form. He already testified as to conversations he had between himself and Peter Aaron in that same context.

MR. GLOBERMAN: That's what I'm asking. What is the objection?

Q Did Peter Aaron call you?

A Yes, he did.

Q Did Peter Aaron say that Milton Kean had called him.

A I think -- off the record.

(Discussion off the record.)

MR. GUSRAE: Did there come a time when you spoke to Peter Aaron relating to any complaints received by E.L. Aaron & Co. and relating to Lawn-A-Mat stock?

THE WITNESS: I had conversations with Peter Aaron pertaining to it. He asked me what we were saying. I told him what we were saying was almost paraphrasing what we had heard from Dan Dorfman and Bernie Discount. He said okay.

Q That's all Peter Aaron said "okay"?

A Yes.

Q Did he tell you to stop whatever you were doing?

A No.

Q Now, you just stated again that Bernard Discount told you that you were paraphrasing what Bernard Discount--

A Dan Dorfman and Bernard Discount.

Q Did Discount have any relationship to Lawn-A-Mat?

A I believe he did.

Q What was that relationship?

A I believe he owned a substantial block of stock vis-a-vis Dan Dorfman.

Q Can you explain what that means?

A Yes. I think that Dan Dorfman had given him an option to purchase some of his stock, or Dan Dorfman had in effect sold him a block of stock for an interest in United Stellar or Dan Dorfman had sold him a block of stock and induced him to accept or to give Lawn-A-Mat an option on United Stellar. I definitely remember a statement by Dan Dorfman at a given point in time that Bernie Discount was one of the new major stockholders in Lawn-A-Mat.

DEPOSITION OF LAWRENCE FIRRENCIELO
PP. 6-12

you are familiar with E. L. Aaron & Company's books and records?

A Yes.

Q During the period between November of 1974 and August of '75, were you employed by both Weller and Aaron & Company simultaneously?

A Yes, I was working at E. L. Aaron during the day, and I was working at J. W. Weller in the evening.

Q With respect to your employment at E. L. Aaron & Company, were you supervised by anyone in E. L. Aaron & Company?

A Yes. George Plave.

Q Were you supervised by anyone else at that firm?

A It would be either Ed Aaron or Peter Aaron, but my direct supervisor was George Plave.

Q Did you ever have any problems while you were employed at Aaron & Company in connection with your duties at Aaron & Company?

A Yes. You know, from time to time, yes.

Q What did you do when you had such a problem?

A I'd go to George Plave and speak to him about my problem. You know, whatever questions I may have, I would have gone to George Plave.

Q Did you ever speak to anyone else or go to anyone else at E. L. Aaron & Company in connection with any problems you may have had?

A I would speak to either Ed or Peter Aaron, you know, in case George Plave was not around.

Q What did Ed Aaron do at the firm?

A He was the trader and the president of the organization.

Q Where was Ed Aaron physically during the business day at E. L. Aaron & Company?

A In the trading room.

Q Was he always in the trading room?

A Most of the times, yes.

Q Based on your experience as an employee of Aaron & Company, who ran the firm?

A Ed Aaron and Peter Aaron and George Plave.

Q Did you ever hear of a stock known as Lawn-a-Mat?

A Yes.

Q When?

A It was probably right after they opened up a Long Island branch.

Q Who opened up a Long Island branch?

A E. L. Aaron.

And at that time -- that's when I first heard about Lawn-a-Mat.

Q Who was in that Long Island branch? If you know.

A Norman Schreiber and Jacobs.

Q Don Jacobson?

A Yes.

Q Did you ever discuss Lawn-a-Mat with Peter Aaron?

A At one time the discussion was made to me to contact John Weller on a cross, you know, to cross some shares.

Q To cross some -- what kind of shares?

A Lawn-a-Mat.

Becuase -- to have a customer sell the stock at J. W. Weller to E. L. Aaron.

Q Let me see if I can break that down.

First of all, you had this conversation with Peter Aaron?

A Yes.

Q When was this conversation, approximately?

A I guess around November, October of '74.

Q What did Mr. Aaron say to you, if you can recall?

A He told me -- he asked me if I would contact John Weller and if he would be interested in crossing a trade.

Q If John Weller would be interested in crossing a trade?

A That's right.

Q Who was John Weller?

A He's the president of J. W. Weller & Company.

Q You used the term "cross" or "crossing stock." What do you mean by "cross"?

A Well, where E. L. Aaron had the seller of the stock and they wanted to purchase the stock, and they would go through J. W. Weller -- J. W. Weller would be an intermediary in the transaction.

Q Who determined the price of the trade?

A That was predetermined.

Q By whom?

A I guess by Aaron and the customer.

Q What about the commission?

A That also was predetermined.

Q By whom?

A Aaron and the customer.

Q Whose customer was it?

A As far as I know, it was E. L. Aaron's.

Q Are you saying that this transaction was in essence prearranged?

A Yes. J. W. Weller was nothing but an intermediary to execute the trade.

Q The customer was not J. W. Weller but, rather, it was E. L. Aaron & Company's?

A Yes.

Q And Aaron & Company determined the price of the trade and the commission to be paid; is that correct?

A That's correct.

Q And Pete Aaron used this term "cross"; is that correct?

A I don't know for sure, you know, but that was the --

Q Is that the best of your recollection?

A Yes.

Q What did you do after you had this conversation with Peter Aaron?

A Now, I got back to John Weller, and the next thing I knew some trades had taken place, and gathered from memory I believe that the salesman in the Long Island branch would call up J. W. Weller directly and, you know, execute the trade in that manner.

Q Let me just see if I can take this step by step.

After you spoke to Peter Aaron, did you speak to John Weller?

A Yes, I did, and John Weller said, oh, okay, he'd be interested in making some money, you know, and so I got back to Peter Aaron and said yes, you know.

I was never the one, you know, who negotiated any particular --

Q What did you tell Peter in connection with your conversation with John Weller?

A That John Weller would be interested in making a cross.

Q Then what happened?

A Then the next step was, somehow, someone made phone calls into J. W. Weller and the orders were executed.

Q Do you know who the customers were?

A They were Daniel Dorfman and Fred Dorfman.

Q These transactions, that is, the transactions by Daniel Dorfman and Fred Dorfman in Lawn-a-Mat stock, these transactions were prearranged by Aaron & Company?

MR. HECHT: Objection to the form of the question. You are leading your own witness.

MR. SCHIEREN: I'm representing what the witness had said previously.

Q Were these transactions prearranged by Peter Aaron?

MR. SCHIERN: Strike that.

Q Were the transactions --

A I assume they were --

Q Were the transactions by Fred Dorfman and Daniel Dorfman the transactions that you have previously referred to as being prearranged?

MR. HECHT: Objection to the form of the question; asking for legal or factual conclusion.

MR. SCHIEREN: Mr. Hecht, the witness previously testified that Peter Aaron spoke to him about certain prearranged transactions, and I'm merely asking the witness if these are the transactions that he was referring to previously.

MR. HECHT: I have no objection to the

DEPOSITION OF CHARLES SILBERMAN
PP. 9-13

Q That is Andrew Dorman?

A Yes.

Q And do you recall when you called Mr. Dorman?

A No. It was afterwards, I believe.

Q So it would be some time after the date of that letter which is July 31 --

A Probably August, probably first week in August, I would say.

Q And did you speak to Mr. Dorman?

A I asked for Mr. Dorman and the gentleman came on the line and we spoke and --

Q What did you say and what did he say?

A Well, I merely said that I was responding to his message and what was it all about and he suggested that Lawn-O-Mat stock would be an excellent buy and there was all indications that the company was going to do very well in the relatively immediate future and that the stock would go up and I would make money by buying it now.

Q Did he say anything else?

A Well, he did talk about how well the company was expected to be doing and the one specific thing that I remember, because it went beyond the question of financial prognostics and figures and so on, they talked about the company putting on the market a small car which was going to do, he said, very, very well, make an awful lot of money and would be responsible for increasing the value in the shares in the stock.

Q Did he say when they were going to produce this car?

A No, not specifically.

Indicated it would be relatively shortly.

Q Did he say anything else to you?

A Not that I recollect.

Q Did you buy any Lawn-O-Mat stock as a result of this conversation?

A No, no, I did not.

MR. SCHIEREN: Plaintiff has no further questions at this time.

EXAMINATION

BY MR. HECHT:

Q Mr. Silberman, I have a few questions.

Are you still affiliated with Lawn-O-Mat?

A I am still what I was as I indicated before, I am a franchisee.

Q Do you know Dan Dorfman?

A Yes.

Q How often do you see Dan now?

A Several times a year, I suppose. Three or four times a year.

Q Last year did you see Mr. Dorfman, 1975, three or four times a year?

A I would think so.

Q Do you recall discussing the car with him?

A Yes.

Q And what did he say to you about the car?

A Pretty much the same as Mr. Dorman had said.

Q And at that time was Mr. Dorfman the Chairman of the Board of Lawn-O-Mat?

A Yes, he was.

Q And do you know if he was the largest stockholder of the company at that time?

A I believe so.

Q Did Dan show you any pictures of the car?

A He showed me the car.

Q He showed you the car?

A Yes.

Q Where did he show you the car?

A I think the plant was in Plain view, I am not certain, but it was on the Island.

Q Would you describe the --

A Called the United Stellar Industries or Stellar Industries, which is S-t-e-l-l-a-r.

Q And when Dan showed you the car, did he say this was being built for Lawn-O-Mat?

A Did he specifically say it was being built for Lawn-O-Mat?

Q Well, let me phrase it this way.

Maybe it will be easier.

What did Dan tell you about the car?

A He told me this was a car that was being produced, that he expect it would revolutionize the automotive industry.

He said it was at a time when the gas crisis was on and therefore the small car, if it could have been produced, might have been important and he expected that it would and they expected it would be -- they were planning to put it on the market in the not too distant future.

He didn't talk on any specific dates.

Q Did you see the car assembled or unassembled or partly assembled?

A Party assembled.

Q Did Dan discuss with you how he or

Lawn-O-Mat intended to finance the production of this car?

A No.

Q When you say partly constructed, could you describe as best you can recall what --

A Yes.

My recollection is that it was a basic chassis, it was the basis chassis.

I do not think there was any top on it. There may have been a lower body, but there was no roof, as far as I can recollect.

Q Do you recall Dan stating anything to you, that he had access to a large molding machine to produce the bodies for the car?

A I don't recollect.

Q Do you recall anything else that Dan said with respect to the car at any time besides the time you went out to the plant with him?

A He may have, but I do not really remember specifically.

Q Do you know anything about Dan's prior technical background?

A Only what I had heard.

That wasn't much.

A To return a call.

If I'm not in, to call, collect. -

And then I returned the call he said that --

Q Do you know who called you?

A He left a name.

Q Schreiber?

A Yes.

Q And you returned Mr.Schreiber's call?

A The next day.

Q Did you ask to speak to Mr. Schrieber?

A Yes.

At first I didn't know why he called me.

And -- left a number to call him, collect.

Q You called Mr. Schreiber.

Did you speak to him?

A Yes.

Q What did you say to him and what did he say to you?

A I asked him what does he want.

He said he has, now, to offer the Lawn-A-Mat stock at a good price.

And I asked him how much.

He said it's going at a dollar; but since there is no commission involved and sold, directly, it would be

75 cents.

At the time -- I know it was already listed as a quarter, on the pink sheet.

Q In other words, Mr.Schreiber indicated to you that, if you bought it, at this time, you would get a discount?

A Yes.

Q Did he say anything else to you?

A Well, we had a conversation.

I told him I don't want to buy the stock, especially when it is listed at a quarter.

He said I'm stupid if I don't buy it now, because it's going to go up next year.

It's going to be, definitely, over a dollar a share.

Q Did he tell you anything about the company, itself?

A Yes.

He told me that the company has, now, a new outlook.

And that it's not going to be what it was; it's going to be much better.

Q Did he say anything else to you?

A I tried to cut the conversation short, because I didn't like the taste of 75 cents.

Q Did he say anything to you about dividends?

A That was one of the things he said; that in a year or so they would even start paying dividends.

That's how good it is.

Q Did he say anything to you about an acquisition?

A Acquisition?

I knew, previously.

He didn't have to mention it to me.

Q Did he say anything to you about that?

A He said something to me about that.

Q What did he say to you?

A That when the Lawn-A-Mat stock acquired other outfits, like Strella, in Long Island.

Q Did he say anything to you about acquiring a chemical company?

A That was planned for the future, too.

Q What did he tell you about that?

A That the company has a new outlook.

And they would eventually build, or acquire, a plant, to manufacture their own chemicals.

Q Did he say anything else to you?

A Not that I remember.

Q Did he say anything to you about manufacturing your own products?

A That's what he was saying, either they would build a factory, or acquire one.

Q Did you buy any Lawn-A-Mat stock at that time?

A At that time, no.

Q Did you buy any Lawn-A-Mat stock anytime subsequent to August, 1975?

A No.

MR. SCHIEREN: I have no further questions of this witness.

CROSS EXAMINATION

BY MR. HECHT:

Q Where is your distributorship located?

A Lakewood, New Jersey.

Q Now you mentioned before, the pink sheet.

Did you normally have access to the pink sheet?

A Dealing with a broker, yes.

Q Did you ever look at the pink sheet?

A Yes.

Q Do you notice on the pink sheet there are both a bid price and a ask price?

A Yes.

Q And was the 25 cents you are referring to the bid price or the asked price?

A At the time that he was quoting, it was -- if it connection with Lawn-A-Mat stocks?

A Yes.

Q Approximately when?

A Approximately around the 4th of October 1974 I began to receive phone calls. The first came from Don Jacobson.

Q Do you know what brokerage firm he worked for?

A Yes, E. L. Aaron & Company.

Q And do you recall what Mr. Jacobson said at that time?

A The conversation revolved around Lawn-A-Mat, what it was doing, the intention of manufacturing tractors in Thailand -- the tractors to pull the combination, manufacturing automobiles with a certain kind of a plastic body, and with an engine, the horsepower of which would be low enough to avoid the emission controls that the car would have to be burdened with in order to be put on the street for sale.

Q Did you have more than one conversation with Mr. Jacobson?

A Yes. We have in the office a daily log we keep of all incoming calls, and from that I have pulled these dates for Mr. Jacobson: October 41, 1974, October 31, 1974, 25 March, 1975, and the 20th of August, 1975.

Q These are dates Mr. Jacobson called you?

A Yes.

Mr. Schreiber also contacted me on the first day of November, 1974, January 7, 1975, March 4, 1975, and April 10, 1975.

MR. HECHT: For the record, he is referring to a list, and I would like a copy.

MR. SCHIEREN: That was Mr. Norman Schreiber you are referring to?

THE WITNESS: Yes.

BY MR. SCHIEREN:

Q Now, I show you a document marked as Plaintiff's Exhibit No. 1.

A I have a copy of it.

Q Would you identify that?

MR. SCHIEREN: It is marked Plaintiff's Exhibit 1, Gordon, with my initials, dated 1-3-74.

(Plaintiff's Exhibit No. 1, was marked for identification.)

THE WITNESS: I initialed that.

BY MR. SCHIEREN:

Q What is that list?

A That is a copy of a list that I had, which is what we used to pull from the logbook which supports the phone calls that came in from these two gentlemen.

Q Specifically, is that a list of the dates of phone calls you received from Mr. Jacobson and Mr. Schreiber?

A Yes.

Q And are those the dates you just read into the record?

A Yes.

Q Now, I believe you testified the first time you called was approximately October 4, 1974.

A Right.

Q Do you recall what Mr. Jacobson said to you at that point in time?

A There was -- as I recall, there was an attempt by Mr. Jacobson to purchase some of the stocks that I had. My comment was that I don't want to sell the stocks. My comment was to call me back when it was 10.

Q What was he offering you for the stocks?

A $2 a share, I believe, but for what quantity, I don't know. But I simply -- I chose the opportunity to say no, because that is how I felt about the company.

Q You were contacted several times after that initial conversation?

A Yes.

Q By both Mr. Jacobson and Mr. Norman Schreiber?

A That is correct.

Q Now, during these other conversations, did -- well, do you recall what was said to you during these other conversations?

A Just a general promotion of the stocks based on the tractor concepts of the tractors in Thailand, the automobiles --

Q They indicated that Lawn-A-Mat was making an automobile?

A The implication revolved around the acquisition of three companies by Lawn-A-Mat, which was simultaneously, supposedly in the works, supposedly going on then.

Q Mr. Jacobson and Mr. Schreiber mentioned that to you about Lawn-A-Mat acquiring three companies?

A I have it down here as being United Stellar -- I honestly don't know if they were ever specifically mentioned. There was just so much going on at the time. I am trying to be honest.

Q Aside from the acquisition of any companies, do you recall what was said to you about a car?

MR. HECHT: Objection to the form of the question. He already testified as to that.

MR. SCHIEREN: All right. Withdrawn.

BY MR. SCHIEREN:

Q Do you recall if you were told that Lawn-A-Mat was manufacturing a car, or was going to manufacture a car?

A Yes, and somehow I believe the understanding was that it would be done through the United Stellar concept.

Q At this point in time you can't recall the relationship?

A No.

Q Between United Stellar and Lawn-A-Mat?

A That is correct.

Q Was anything said to you during these conversations about the price of the stocks?

A Yes. They mentioned that the stocks would, in their opinion, be somewhere between $0 and $100 a share within a 5-year period.

MR. HECHT: Let the record reflect I object to the form of the question just asked, as leading.

MR. SCHIEREN:

Q Do you recall anything else said to you in connection with the stocks?

A Yes. I wanted to sell some stocks at a point, and the comment made to me by Schreiber was that for every customer I brought him to buy 200 shares they would take 100 shares of stocks off my hands -- that I, specifically.

Q Who do you mean by "they"?

A E. L. Aaron Company. I would assume that is who Schreiber meant.

Q Was anything else said to you by Messrs Jacobson or Schreiber in connection with Lawn-A-Mat stocks?

A Nothing, other than the plastic automobile, the tractors in Thailand.

Q That is all you recall?

A. Yes.

Q. You testified previously that you purchased 200 shares of Lawn-A-Mat stocks.

A. Yes. It was at the end -- I would have to get the slip out.

Q. Let me clarify the question.

You testified you purchased 200 shares of stocks from E. L. Aaron & Company.

A. Yes.

Q. Do you recall when you purchased this?

A. I don't know when it was. I believe it was sometime in '75. A dealer had a bar mitzvah, and the stock was issued in his son's name.

MR. SCHIEREN: At this time I have no further questions.

MR. HECHT: I have a few questions.

Can I have a copy of the documents that Mr. Gordon has been referring to? It looks like a letter with some attachments he referred to during his examination, and before I examine him, I would like to look at them.

MR. SCHIEREN: Let the record reflect Mr. Gordon had a copy in his possession, a copy of the Questionnaire which was sent to him, and he completed, and I believe we made an available copy of these to Mr. Hecht.

CROSS-EXAMINATION

BY MR. HECHT:

Q How did you originally come into contact with Lawn-A-Mat?

MR. SCHIEREN: I object to the relevancy of that.

THE WITNESS: In 1964, Marvin Tiernan, who was in business four doors down from my Dad's business, brought Lawn-A-Mat to my attention, and it was becuase of Marvin's enthusiasm that I caused my father to make an investment in my behalf.

BY MR. HECHT:

Q And at that time did you meet Dan Dorfman?

A Yes. I met Dan Dorfman in '64.

Q Do you recall what was said by you and Mr. Dorfman at this first meeting?

MR. SCHIEREN: Let the record show I object to this entire line of questions as being irrelevant as to how he became involved with Lawn-A-Mat, and any statements Mr. Dorfman made to him.

MR. HECHT: All I say is that the gentleman owns over 110,000 shares of stock, and as a stockholder who was solicited, I believe it was relevant as to how he became so.

BY MR. HECHT:

Q Please answer.

A Repeat that please.

Q Do you recall what you said to Mr. Dorfman and Mr. Dorfman said to you when you first met?

A Sure. My father was with me, and he said, "If these numbers are correct we should buy this business."

Q And what do you mean by "these numbers are correct"?

A The breakdown of a consumer dollar coming into the house, and therefore was projected at the bottom line after "expenses."

Q And now that you have run this business for about eleven or twelve years, have these projections Mr. Dorfman gave you originally proven to be somewhat valid?

MR. SCHIEREN: I object to that, to these discussions about "projections".

MR. HECHT: Were these projections Mr. Dorfman gave you as to how a franchise worked?

MR. SCHIEREN: I still don't believe there was --

THE WITNESS: There was never any question about the validity of the business, the presence of Dorfman had nothing to do with the development of this company as far as I am concerned.

BY MR. HECHT:

Q What do you mean by the presence or non-presence of Dan Dorfman is totally unrelated to the company?

A What I did in Washington, D. C. I did nn my own initiative. I had absolutely no help from the home office.

MR. SCHIEREN: I believe you are referring to your own dealership.

THE WITNESS: I am referring to the development of the distributorship which involves a dealer network I spent all of my time in developing.

BY MR. HECHT:

Q So you were a distributorship as well as a dealer?

A That is correct.

Q Now, do your distributorship and dealership have the same name?

A No.

Q What is the name of your distributorship?

A Lawn-A-Mat of Metro Washington.

Q And is that the same name that is on the bottom of the stationery as Plaintiff's Exhibit No. 1?

A Yes.

Q And is your distributorship and dealership run out of the same office?

A No.

Q Which office has the policy of noting down all incoming calls?

A The Bethesda operation.

Q That is your dealership.

A Yes.

Q Then how come -- would you take a look at Plaintiff's

Exhibit 1 with respect to calls received? It appears to be on the stationery of Lawn-A-Mat of Washington.

A What is the problem?

Q That has no procedure for taking incoming calls, does it?

A I have one secretary who answers the telephone for people who are working for me, for years; dealers, et cetera.

Q But your procedure for monitoring all incoming calls?

A That is a logbook. We do that so the customer can't say we called and you didn't do thus-and-so.

Q That is a logbook for your dealership?

A Yes. And it gets personal messages in there also.

Q Now, with respect to your original investment in Lawn-A-Mat common stocks, in 1969, who did you discuss this original investment with?

A Nobody.

Q Did you call up a broker?

A I bought the stocks through Hemphill & Noyes.

Q Here in Washington?

A Is it Hornblower & Weeks-Hemphill Noye? Yes.

Q What is his name?

A His name is Mr. Thompson.

Q Do you know what office that was?

A The Connecticut Avenue office.

Q Connecticut and where? Is that about 18?

A It is on Connecticut between L and M, or M and N. In around there somewhere.

Q Is Mr. Thompson still with Hornblower?

A Yes.

Q Do you still deal with him?

A No.

Q Now, your original investment was 1000 shares for $4110.

A Indicating I paid in excess of $4 a share, right.

Q And what motivated you in buying the sticks at this time?

MR. SCHIEREN: Again, counsel, I must object to the relevancy. I think it is a waste of time.

MR. HECHT: I don't think so.

BY MR. HECHT:

Q Would it be considered an unsolicited order by you or was it recommended by the broker?

A It was recommended by Dorfman.

Q Which Dorfman?

A Dan Dorfman.

Q What did Mr. Dorfman say to you, and what did you say to him?

MR. SCHIEREN: Is this in connection with the first transaction?

MR. HECHT: Yes.

THE WITNESS: I have known Dan Dorfman since '64. He had a heart attack in '68, he convalesced in Scottsdale, Arozina, the company was being run by Mr. Rubenstein during that period, the company was moving dramatically. I thought as a businessman it was a prudent investment, and I still do.

BY MR. HECHT:

Q What do you mean by "moving dramatically"?

A Well, the dealer network increase was phenomenal. I had flown to Texas, the Carolinas, Florida, the Midwest, I, myself, was actively promoting from a distributor-involved point of view.

Q Now, on this original 1000 shares that you purchased, was there a subsequent stock split?

A I think that occurred in '73, did it not? There was a 4-for-1 split in '73, I believe.

Q I notice here in the schedule that meant you would have had 142,000 shares.

A Let's put it this way -- then maybe -- well, I can't answer that question. I don't know how the numbers got -- I know the block of stock, the 10,000 shares I bought in July of '72 at the bottom, I got a 30,000 shares certificate on top of that. So maybe it was a 3-for-1 -- yes, that is 110,300, isn't it?

MR. HECHT: No. That comes out 106,000.

THE WITNESS: Okay. I know what happened. There was another 4000 shares that I bought from Fred Dorfman. I forgot about that.

BY MR. HECHT:

Q When did you buy those 4000 shares from Fred Dorfman?

A I don't know. I think it was in '74, if I am not mistaken.

Q Do you recall what you paid for them?

A I can't recall.

Q Was it more or less than $1 a share?

A I don't know.

Q When you bought these shares from Fred Dorfman, was it before or after you spoke to Mr. Jacobson or Mr. Schreiber initially?

A I think it was before -- I would have to check that though.

Q Getting back to your list of stocks purchased, I notice in 1969, going through to July of '72, you were consistently buying Lawn-A-Mat stocks.

A Yes, sir.

Q Did you have a standing order to your broker to buy it up?

A No. Every time I had some spare cash I bought some stocks.

Q Did you always buy it through Hornblower Weeks?

A With the exception of that one purchase I got through Fred Dorfman.

Q And the 200 shares you bought through E. L. Aaron.

A Yes.

Q And that 200 shares would be considered a small purchase?

A Yes. It was for a dealer's son who was being bar mitzvahed, and I had the stocks issued in his name -- Andrew Heddelson was his name.

Q Did you buy those 200 shares through E. L. Aaron?

A Yes.

Q Why did you pick E. L. Aaron?

A Because they were on the phone with me quite a bit.

Q When you bought these 200 shares, this was your own idea, you thought it was a nice present?

A Yes.

Q Do you recall speaking to Jacobson or Schreiber in connection with these 200 shares?

A Other than I think it was Mr. Schreiber who took the order.

Q Do you know enough about the brokerage industry to know if this would be a solicited order or unsolicited?

MR. SCHIEREN: I object to that.

MR. HECHT: Do you know what a solicited order is?

THE WITNESS: No.

MR. HECHT: Do you understand what unsolicited order is?

THE WITNESS: No.

BY MR. HECHT:

Q The motivation of this came from you?

A No, from them.

Q How did it come from them?

MR. SCHIEREN: Object. The witness testified that all during this period between October '74 through August of '75 he received phone calls from Mr. Jacobson in which they were promoting the purchase of Lawn-A-Mat shares.

MR. HECHT: I object to counsel testifying. I think what was said will speak for itself.

BY MR. HECHT:

Q Do you recall when you purchased the stocks for Mr. Huddelson?

A I would have to look it up.

Q Do you recall if it was in the winter of '75?

A I think it was in the spring.

Q Of '75?

A Yes.

Q Between 4-10-1975 and 8-20-1975, looking at Plaintiff's Exhibit No. 1, there were apparently no phone calls received from either Mr. Jacobson or Mr. Schreiber to you.

A There were additional phone calls that came in, but these are all we could log out of the phonebook log -- referring to it will substantiate those calls were made. (19)

There were other calls made. They were calling other dealers in the Washington area promoting the stocks based on the car concept, and so forth.

Q Now, during this period, between October 4, 1974 and September 1, 1975, did you ever visit the Lawn-A-Mat facilities in Long Island?

A Which facilities?

Q Did you ever go up to Long Island?

A Yes.

Q You tell me which facilities.

A I went out to the Stellar operation in Plainview, owned at the time by Bernard Discount.

As a matter of fact, Lawn-A-Mat moved their offices out there and then went back to 153 Jefferson Avenue.

Q What is the reason you were up in Long Island?

MR. SCHIEREN: I object to this line of question.

THE WITNESS: To take John T. Clancey, who was buying a dealership in Richmond, Virginia, and I took him up to show him what was going on, the enthusiasm, and so forth.

BY MR. HECHT:

Q And how long did you spend up there.

A A couple of days.

Q Do you recall who you spoke with?

A Yes. Bernard Discount and Dan Dorfman. I don't know that Discount was part of the company. They were housed in the offices of Mr. Discount's organization.

Q During that visit did you meet a Mr. Erazo?

A I know him very well. I met Mr. Erazo for the first time in '75.

Q When you took Mr. Clancey up there --

A I met Erazo in December of '74, I remember.

Q When you went up to this Long Island facility with Mr. Clancey, was that before or after you met Mr. Erazo?

A I think it was before I met him.

Q So this would be sometime before December of 1974 that you were up there?

A Yes.

Q While you were at the facility, did you see anything that looked like an automobile?

A Oh, yes, yes, sir.

Q Would you tell us, for the record, what they showed you?

A It looked like a soap box --

Q Derby model?

A Yes.

Q Did it have wheels on it?

A Yes, I think it did -- I am not so sure if it was not just a frame of what they might use at Indianapolis. It was hard to discern, to be honest about it.

Q Did it have a chassis there?

A Somewhat, yes. But very, very raw, very undeveloped.

Q Do you recall what Mr. Dorfman said to you with respect to the car?

A Sure. That Lawn-A-Mat would be manufacturing, and they were looking for dealerships, and what was my comment on it. And I said, "Needless to say, I am a distributorship and if the car will be manufactured, obviously I want a piece of the deal."

Q What did he say about the car?

A Only that it was plastic. And he had color photographs that were photographed somewhere in the Midwest, I believe -- perhaps in Detroit.

Q Was it Joplin, Missouri?

A No. That is where Stellar is located, not there.

Q Did he describe this? Did he say it was plastic or fiberglass?

A I am not sure. It was a form of plastic, if fiberglass -- I don't believe that was used.

Q Do you recall any discussions at that time with Mr. Clancey that they had a blow-mold machine?

A Yes, in Joplin.

Q Would you describe that?

A I can't. It was too technical for me, nothing I could comprehend. I am not mechanical, other than the promotion of the concept of the real estate, what it would mean to the stock, et cetera.

Q Tell me what actually was said, what was its effect on the stocks and the real estate, and everything else Dan was describing.

A I really can't get into it, other than the fact there was real estate involved in the Joplin situation, machines, tools of vast amounts, that if today were manufactured, could not be manufactured for what they were originally purchased for.

There was mention of the Republic Corporation in Los Angeles, at 50 grand, and basedon a tax price happening on the stock market -- the whole concept was very exciting, you must understand that, and with 110,500, I am multiplying.

Q And these optimistic forecasts about the company were coming from Dan?

A Yes.

Q And what did Dan say with respect to this stock? Did he feel it would go up 50 to 100 times, or --

A That was one of the areas he was always very clever in, because as Milton Kean used to say, if he is half wrong that is still not bad. Dan would say 100.

Q So what is half of 100?

A Well, you figure that out.

Q You are testifying. I want you to.

A I have no further comment.

Q Isn't it a fact when you said "50 to 100", didn't that come from Dan Dorfman and Milt Kean and not Dan Schreiber?

A It did not come from Milt Kean.

Q From Dorfman?

A Not from Dorfman.

Q I am talking about just Lawn-A-Mat stocks, what the value would be in five years?

A There were many numbers thrown around.

Q Who was doing that?

A E. L. Aaron & Company.

Q You mean Schreiber or Jacobson?

A Jacobson and Schreiber. Jacobson being more aggressive than Mr. Schreiber.

Q And Dan was always throwing around those numbers also, wasn't he, he was throwing around the number of "100"?

A It seems to me Dan jumped at that number.

Q How about Bernie Discount?

A No. Bernie was disenchanted with the whole deal by the time they moved to Plainview.

Q That is my understanding too.

MR. SCHIEREN: I would like to take a brief recess here.

(At this point, a short recess was taken.)

Q Did Mr. Jacobson and Mr. Schreiber tell you that Lawn-A-Mat was going to make a car?

A Yes.

Q Did Mr. Jacobson and Mr. Schreiber tell you that the price of Lawn-A-Mat stock would be 50 to 100 times in five years?

A Yes.

Q Now, did Dan Dorfman tell you that Lawn-A-Mat was making a car, or did he say that Dan Dorfman was making a car?

A That I don't know; I assumed that it was Lawn-A-Mat.

MR. SCHIEREN: No more questions.

MR. HECHT: I have just a few more questions.

RECROSS-EXAMINATION

BY MR. HECHT:

Q Do you know if there is anything wrong in asking you if you knew anybody interested in purchasing Lawn-A-Mat stock?

MR. SCHREIBER: Objection. What difference does it make?

MR. HECHT: Because he gave an intonation -- I am asking, do you know of any rule or law saying you cannot ask if you know of any people interested in buying Lawn-A-Mat stock?

THE WITNESS: Do I know if it is wrong that someone asks me that question who is promoting securities?

DEPOSITION OF JACOB KAPLAN
PP. 4-12

A In the spring of 1969, I purchased 100 shares.

Q How did you first hear of the company, sir?

A Well, at that time I, I -- they were having, they were heavily advertising their lawn service and since I was a home owner and I still am a home owner, I subscribed to their law service.

Q As a customer, then?

A As a customer.

Q Thereafter, you bought 100 shares, is that correct?

A Yes, and I, I thought that since they were a new and growing company that their stock might be worth buying and, at that time, I was able to follow their stock since it was listed in the National Stock Exchange which is now, I understand, defunct. So I watched the stock go up in price from about 4 to 6. At that point, I bought 100 shares.

Q Do you still own that hundred shares?

A Yes, I do.

Q Is that 100 shares still 100 shares or has it become something else?

A No, it was split several years later and it's now 400 shares.

Q Did there come a time that you acquired any other Lawn-A-Mat stock?

A Yes, in March.

Q Approximately when was that?

A In March 1975.

Q Will you tell us the circumstances surrounding that acquisition?

A Yes. I received a letter from E. L. Aaron & Company, a company I never heard of, advising me that Lawn-A-Mat was in a position now to -- they knew that I was a stockholder.

Q Who did you speak to?

A Well, I got a letter from them first.

Q How do you know they knew you were a stockholder?

A How did they know? I don't know.

Q Do you recall what the letter said?

A The letter said that the, if I was interested in obtaining some interesting information about Lawn-A-Mat, I should call their office collect and ask to speak to Mr. Jacobson, so I called him collect and Mr. Jacobson got on the phone and he informed me that the stock was about to move up, that the company was growing, that it was about to put out a new product, and that the price of the stock would be going up in the near future several times, something like two or three times, and he made it very enticing.

So, I advised him that I would think it over and call him back and, so, that same day, I thought it over and

I called him back and I ordered 500 shares.

Q Were you ever contacted by Mr. Jacobson again?

A Yes, in July of that same year, 1975, he called me and he said that the expectations that he had in March hadn't materialized but the company was now undergoing a new management, or words to that effect, and that price of the stock was more than it had been in March and it was, again, a good time to buy, and he tried to persuade me to buy additional shares.

So, I finally decided, since I had a total of 900, I would buy another 100 to make it an even 1,000. And he was very persuasive and tried to induce me to buy additional shares, but I was getting a little bit leery about the whole thing and I decided a hundred shares would be enough.

Q Was there any further discussion in the second conversation with Mr. Jacobson concerning this new product that Lawn-A-Mat was going to come out with?

A No. He said that it just hadn't materialized and that -- I don't remember the exact details of further conversations with him, but --

Q Mr. Kaplan, I show you what I have taken the liberty to mark as Plaintiff's Exhibits 1-A and 1-B and ask you, sir, whether you can identify these documents?

A Yes, this is the, 1-A is the, this is the confirmation slip for the second purchase of 100 shares that I purchased in July at a price of 3/4 and this is the envelope in which it was mailed.

Q You received that in the mail?

A Yes.

Q And I show you what has been marked as Plaintiff's Exhibit 2, a Kaplan Deposition, and ask you if you can identify that document?

(Plaintiff's Kaplan Deposition Exhibits 1-A, 1-B and 2 were marked for identification by counsel.)

A Yes, that's the check I sent to E. L. Aaron & Company in payment for the 100 shares.

Q You say you sent that. You sent it by mail?

A By mail, yes.

Q I show you what has been marked by myself, Mr. Kaplan, as Plaintiff's Exhibits 3-A and 3-B, Kaplan Deposition, and ask you if you can identify the two documents?

(Documents further described below were marked by counsel as Plaintiff's Kaplan Deposition Exhibits 3-A and 3-B for identification.)

THE WITNESS: 3-A?

Q Yes, sir.

A 3-A is the confirmation slip for the first purchase from E. L. Aaron & Company for 500 shares.

Q In March of 1975?

A In March of 1975, and the 3-B is the envelope in which it had been mailed to me.

Q I show you what has been marked as Plaintiff's Exhibit 4, Kaplan Deposition, and ask you if you can identify that document?

A Exhibit 4 is the check in which I mailed E. L. Aaron Company the payment for the 500 shares.

(The check referred to was marked by counsel as Plaintiff's Kaplan Deposition Exhibit 4 for identification.)

MR. MANDEL: Thank you very much. At this time we have no further questions.

MR. HECHT: Can I look at those? I have some questions.

CROSS EXAMINATION

BY MR. HECHT:

Q Mr. Kaplan, you said before you were an engineer with the Army. Where did you go to college?

A At Rutgers.

Q Did you graduate from Rutgers?

A Yes.

Q Did you ever take any graduate degrees?

A Yes, I got a Master's Degree.

Q At Rutgers?

A At Rutgers.

Q In what?

A Electrical Engineering.

Q During your studies at Rutgers, did you take any courses in economics or finance?

A No, I didn't.

Q Subsequent to getting your Masters at Rutgers, did you attend any other institutions of higher education?

A No, I didn't.

Q Have you ever taken any courses in finance or economics?

A Not that I can remember.

Q Was the Lawn-A-Mat stock you purchased in 1969 the first security you had ever purchased?

A No, no. I had purchased, I first purchased AT&T stock in 1958.

Q And was that the only stock you owned prior to purchasing Lawn-A-Mat?

A No, I owned, I owned shares in several other companies.

Q Were they listed companies or unlisted companies?

A Mostly listed companies.

Q But when you bought Lawn-A-Mat, did you consider the National Stock Exchange like the New York Stock Exchange--

A No.

Q -- or the American?

A I was just interested in buying a stock which I could follow, and since it was listed, I could follow it.

I don't like to buy stocks where you can't find out what it's doing.

Q From your testimony, I understand that one of the reasons you purchased the stock initially is you liked their concept of doing business?

A Yes.

Q And what did you understand their concept of doing business to be?

A Well, they were a growing company, they seemed to be the only one in the market at that time with a lawn service that I was interested in, and they were heavily advertised in the New York newspapers as well as the local newspapers.

They seemed to be a very rapidly growing company which looked like a good prospect.

Q As a stockholder, did you receive annual reports from the company every year?

A No, I didn't.

Q Did you receive them some years?

A I can't remember that I ever received one.

Q Did you ever write the company and ask for one?

A No, I didn't.

Q Were you aware that there was financial informatio
with respect to the company down at the SEC?

A No, I, I wasn't.

Q Now, when you initially spoke to Mr. Jacobson, when he said to you he thought the stock was going up, did he say to you he thought the stock was going up or did he guarantee to you that the stock was going to increase?

A He didn't guarantee. Nobody can really guarantee anything. He would be foolish to guarantee something which -- but he indicated very strongly that it probably would go up.

Q What were the reasons he gave you why he felt it would go up?

A The only one I can really remember is that he said the company was putting out a new product. Now, he was very persuasive and he must have given me other reasons, which I can't remember.

Q Do you recall what that new product was?

A No, I don't.

Q Do you recall if it had to do with the lawn-care industry itself or was it not related to the lawn-care industry?

A I really don't remember now. It's some time.

Q Did he say to you that the company was growing?

A Yes.

Q In what way, in number of dealers, in number of franchises, or --

A Primarily based on this new product that he had indicated, without going into any detail that I can remember.

Q You also said in your direct testimony something to the effect that the stock would double or triple.

What did you mean by that?

A Well, it was selling at that time for 1-3/8, as he indicated, and the price of the stock would be going up two or three times in the next, foreseeable future, and you multiply 1/38 by 2 or 3, you get something like 2-3/4 of 4, in that order.

That looked like a fairly reasonable expectation based on the information he gave me at that time.

Q Which was this new product?

A Yes, plus other things which he mentioned, which I really don't remember, because, as I say, he was very persuasive.

Q Now, when you were talking with him, you realized that a stock trading at about $1 a share is a speculative stock?

A Oh, yes. I wasn't investing that much money. It was only something like a little over $600.

DEFENDANT'S EXHIBIT "D"

DEFENDANT'S
D
EXHIBIT
U. S. DIST. COURT
S. D. OF N. Y.

D.V.C. Essner 3 for id
C.B.
9/18/75

January 2, 1975

TO: All Distributors & Dealers

FROM: Fernando Erazo

Since we have had many request for the name and address of the company handling Lawn-A-Mat stock purchases, we are listing it below:

Norman L. Schreiber
142 Mineola Avenue
Rosyln Heghts, N. Y. 11577
516-484-1490

Mr. Schreiber will accept collect telephone calls from Lawn-A-Mat Distributors & Dealers.

DEFENDANT'S EXHIBIT "F"

Δ Ex # F ~~A~~
F

EXHIBIT
U. S. DIST. COURT
S. D. N. Y.

AUG 28 1975

(CPL

Lawn-a-mat

[illegible] 1 (Dorfman)
10/16/75 S

February 11, 1975

Mr. Norman Schreiber
Director of Sales
142 Mineola Avenue
Roslyn Heights, N. Y. 11577

Dear Mr. Schreiber,

I am writing this letter to advise you that several calls from Lawn-A-Mat Dealers have been received, by us, recently, regarding your telephone calls to them.

You may possibly not be aware that our Dealers are quite up-to-date on Lawn-A-Mat's position. That is the reason why they are so concerned about your calls to them regarding automobiles, wholly owned subsidiaries..., etc.

As the Chief Operating Officer of the Lawn-A-Mat Chemical & Equipment Corporation, I am requesting that if you are going to call our Dealers with particular information about Lawn-A-Mat, I would want to know beforehand what that information is going to be.

I consider that certain information is being misunderstood, and is placing the Company in a very embarrassing position, with possible legal implications.

Thank you for your consideration.

Yours very truly,

Fernando Erazo
Executive Vice President

FE/njl
c.c. D. Dorfman
M. Kean

153 JEFFERSON AVENUE
MINEOLA, NEW YORK 11501
LAWN-A-MAT CHEMICAL & EQUIPMENT CORP.

DEFENDANT'S EXHIBIT "K"

Def 'I'

JUDITH M. GROB

~~Plt's~~
Deft's EXHIBIT 1 for ID
Date 10/27/76

THE REGISTERED
REPRESENTATIVE'S
MANUAL

E. L. AARON & CO., INC.
50 Broad Street
New York, New York 10004

TABLE OF CONTENTS

A. OPENING NEW ACCOUNTS

Rule 405 - "Know Your Customer" 2

Exchange Employees and Employees of Fiduciaries 5

Fiduciary Accounts 6

The Opening of Accounts - Procedure 7

B. CONDUCT OF ACCOUNTS

Registered Representative's Responsibility to the Customer and to the Firm 10

Advising Clients 10

Relationship Between a Registered Representative and His Client 12

Purchases of Low-Priced Unlisted Securities 14

Masterminding The Market 14

Manipulation 15

Registration Requirements 15

Investment Stock 16

Sales of a Substantial Amount of a Single Security 17

Account Activity 17

Registered Representative's Records 18

Regulation T 18

Prepayments 18

Erroneous Reports 19

Responsibility For Delays 19

Extensions 19

Draft Charges 20

(Continued)

Good Deliveries.................................... 20

Customer's Complaints.............................. 20

Correspondence..................................... 21

C. GENERAL HOUSE RULES APPLYING TO ALL EMPLOYEES........... 22

D. ATTESTATION.. 27

THE REGISTERED REPRESENTATIVE'S MANUAL

The Registered Representative must be many things to many people. He must have a working knowledge of routine procedure so that clients are informed as to how orders are executed, what reports or statements we supply, when dividends are accrued and a multitude of other facts. The Registered Representative must be familiar with the laws, rules, and regulations which govern our business. He must be prepared to provide a fund of ideas for investors, and he must be something of an analyst as well. He is not expected to do voluminous research studies, but the Registered Representative must keep abreast of business conditions, financial events and be prepared to supply interpretations thereof.

The success of the individual and the success of our firm depends upon a blending of accurate and dependable service, and sincere intelligent information. The purpose of this guide is to provide the Registered Representative with a source of reference for any procedural problems and questions he may encounter in his day to day business. It is an outline of the major policies and procedures in force at E. L. Aaron & Co., Inc., and points out various rules and regulations promulgated by the various regulatory bodies. This manual, therefore, should be kept at hand and referred to at will.

Your attention to the information contained in this guide will assist you in doing your important part of the job, and indeed, will make the operation of your affairs more orderly and effective, to the benefit of yourself and your clients.

OPENING NEW ACCOUNTS

Rule 405 - "Know Your Customer"

Probably the most basic rule applicable to the area of dealing with the public is expressed by Rule 405 of the New York Stock Exchange. Although the rules of the New York Stock Fxchange do not apply to the Firm, Section 27 of Article III of the Rules of Fair Practice of the National Association of Securities Dealers, Inc., sets forth similar requirements, and, for simplicity of reference, Exchange rules will occasionally be referred to in this Manual. Rule 405 is the "Know Your Customer" Rule. This rule, in essence, requires the Firm, and each Registered Representative, to use due diligence to learn the essential facts relative to every customer, every order, every cash or margin account, and every person holding a power of attorney over any account accepted by the Firm and the Registered Representative.

Apart from being necessary in order to avoid violation of Section 27, knowing your customer will enable you to serve him more effectively and efficiently. It is, therefore, important that from the very inception of your relationship with a new customer, as much information as is reasonably possible should be obtained from the customer, particularly in the following subjects:

A. Financial Responsibility - At the time a new account is opened, it is prudent and required by the Firm that you obtain credit references from a new customer. The credit references may include a bank or brokerage firm, the latter being particularly helpful. In opening a new account, or servicing an old one, it is assumed that the Registered Representative is familiar with the customer's financial responsibility, and that orders will not be accepted from any account, old or new, unless they are within the reasonable limits of the account's financial resources. In addition, we urge Registered Representatives to obtain deposits of cash or securities from new accounts since losses incurred by bad accounts are chargeable to the Registered Representative. In this regard, if you have any reason to question the reputation of responsibility of a client, you may request that a credit report be obtained by the Firm. The first transaction in a new account must be initialed by an officer of E. L. Aaron & Co., Inc., prior to such order being entered.

B. Customer's Investment Objective - The Rules of Fair Practice of the N.A.S.D. require that every Registered Representative, when recommending the purchase or sale of a security to a customer, have reasonable grounds for believing that the recommendation is suitable for such customer. It is, therefore, imperative that a Registered Representative be totally familiar with his customer's other security holdings, (including the manner in which the securities were acquired, and the length of time the securities have been held) as well as his financial situation and needs. Only a Registered Representative cognizant of his customer's financial position and investment objective can determine whether a particular security is suitable for a customer. It is, thus, apparent that if a Registered Representative is aware that his customer is particularly concerned with safety of principal, it would not be suitable to recommend the purchase of a speculative or volatile security to that customer. A Registered Representative must always be mindful of his customer's investment objective, and it is impossible for a Registered Representative to ascertain a customer's needs and objective unless he is familiar with the essential facts concerning the client.

C. Age of Customer - The Firm will not permit a Registered Representative to open an account for an individual who is under 21 years of age, nor will the Firm allow a Registered Representative ro accept an order from a person under 21 years of age when such order is for an already existing account. This is true even though the client in whose names the account exists gives a power of attorney to the minor. This policy is the result of the state law which allows minors to disavow contractual obligations on the mere showing that they were under legal age at the time the transaction was effected. It is, therefore, important that a Registered Representative obtain proof of age, if he is not certain that a prospective client is over 21 years of age.

D. Citizenship of Customer - Rule 405 specifically states that information as to the country of which a customer is a citizen is an essential fact required to be known by a Registered Representative. All accounts belonging to customers who are not American citizens, must be reported to an officer of E. L. Aaron & Co., Inc.

E. Trading Authorization - In the case of corporate, partnerships, investment club, fiduciary (i.e., Power of Attorney, Trust, Pension, etc.) accounts, a Registered Representative is obligated to learn certain additional essential facts relating to such accounts. Most important of all, a Registered

Representative must obtain proof that the individual exercising the trading authority over such accounts has in fact been empowered by the individual or organization to exercise control over the account. This means, in essence, that the Registered Representative is responsible for obtaining the necessary supporting documents for such account, i.e., an executed power of attorney for a third party account; the appropriate trust instruments for a trust account, a corporate resolution for a corporate account, etc. In no event, should you execute an order given by a person other than the client in whose name the account exists, unless the necessary papers are physically on file with E. L. Aaron & Co., Inc., authorizing such other person to give orders. In this regard, if you have any questions as to the extent of the authorizations received, you should consult an officer or the Firm's Counsel's office for an opinion. In addition, it is essential that in each such situation, the Registered Representative become familiar with the extent of the power granted to the individual authorized to effect transactions in such accounts. In many instances, an individual is granted limited powers, such as where an individual is authorized to trade, but not withdraw funds, from a third party account.

F. Occupation of Customer - It is particularly important that a Registered Representative be aware of his customer's occupation and business interests. Aside from the fact that such information is valuable when determining a customer's financial responsibility, it is necessary in order to insure that neither the Registered Representative, nor the Firm, participates in the sale of unregistered securities (see section dealing with "Registration Requirement"); participates in a violation of Regulation T (see section dealing with "Regulation T"); or violates the N.A.S.D. equivalent of Rule 407 of the New York Stock Exchange (see section dealing with Exchange Employees and Employees of Fiduciaries"). It is equally as important to keep abreast of all changes in the occupation of your customer. This is true, of course, regarding all changes in the basic information concerning your client. All such changes should be entered in your records and reported to the Cashier.

G. Call-in-Accounts - If the customer is unknown, the order should not be executed until the references are checked. This is true even though the call-in may have been referred by an existing client. Don't be embarrassed to check references.

The foregoing list of subjects is by no means meant to be all-inclusive. A Registered Prepresentative must, in short, know his customer, and a responsible effort should be made to obtain all available information regarding a client. In addition, information concerning each customer should be kept current, and a periodic review of accounts should be conducted for that purpose. In this connection, it should be observed that the information acquired regarding a customer is personal and confidential, and should be treated in this manner. Such information will only be utilized by the Firm in connection with the customer's securities transactions, and compliance by the Firm with the rules and regulations of the various regulatory bodies. In no event is information regarding a customer, no matter how insignificant it may seem, to be given to any person not connected with E. L. Aaron & Co., Inc., including members of regulatory bodies without the prior approval of the Firm's Counsel's office.

EXCHANGE EMPLOYEES AND EMPLOYEES OF FIDUCIARIES

Rule 407 of the New York Stock Exchange prohibits Exchange employees and employees of certain fiduciary organizations from carrying certain brokerage accounts unless our Firm obtains the prior written consent of the employer. It is, therefore, important that a Registered Representative know the specific occupation of each of his customers, and it is the responsibility of the Registered Representative to obtain the appropriate written consent from the employer prior to the opening of the account. Unless the Registered Representative attaches the necessary written consent from the employer to the Firm's new account card at the time the account is opened, the account will be restricted from doing business until such time as the appropriate ltter of consent is received by the Firm.

Rule 407, in essence, provides thatunless the Firm has, on hand, the written consent of the employer;

(a) an employee of another member of the New York Stock Exchange, or an employee of the Exchange itself, may not open a cash or margin accound; and

(b) an employee of a bank, trust company, insurance company, or of any other corporation, association, firm, or individual engaged in the business of dealing, either as broker or as principal, in securities, may not open a margin account. This rule applies to all employees of insurance companies without regard to whether they are compensated on a salary or commission basis. However, it is not considered applicable to independent insurance agents. Another notable exception to this Rule is that a person who is clearly designated by the Charter or By-Laws of a bank, trust company, etc., as an officer of such institution is not considered an "employee", and therefore need not obtain a letter of consent. Section 28 of Article III of the Rules of Fair Practice of the N.A.S.D. sets forth similar requirements for members of the N.A.S.D.

FIDUCIARY ACCOUNTS

A fiduciary account, for the purpose of this guide, may be broadly defined as any account where an individual other than the beneficial owner of the account holds the authority to exercise discretion and judgment in connection with trasnactions effected in the account. Fiduciary accounts, therefore, include all Power of Attorney, institutional, and corporate accounts, and most trust investment club, and partnership accounts.

The most important single rule to follow in servicing the fiduciary accounts is to realize that there is no such thing as a verbal Power of Attorney. Orders and instructions for a fiduciary account may only be accepted from duly authorized persons and never from third parties. Particular attention, therefore, should be given to the regulations and firm policy governing fiduciary accounts. A violation of these rules may lead to serious consequences for the Firm and the Registered Representative.

Rule 408 of the New York Stock Exchange prohibits a Registered Representative from exercising discretion in the handling of transactions for a client's account without prior written authorization from the client. The N.A.S.D. has a similar rule. The Firm policy regarding the servicing of fiduciary accounts, where the Registered Representative is granted the discretionary power, may be briefly summarized as follows:

(1) No Registered Representative may have discretionary authority over any customer's account except as outlined in paragraph (2) below. This applies to occasional discretionary trading as well as to standing discretionary authority over an account.

(2) An exception to this rule, the Firm permits a Registered Representative to maintain discretionary authority over the accounts of his wife and/or children. This exception, however, is only permitted if the following conditions are met:

  (a) A properly executed power of attorney is obtained and on file with the Cashier; and

  (b) Each and every purchase or sale order placed for such account is approved and initialed by and officer of the Firm prior to the time such order is executed. In this regard, each such order must be submitted by the Registered Representative to an officer for approval, prior to its execution.

The above provisions do not, however, apply to discretion given to a Registered Representative by a customer as to the price at which, or the time when an order given by the customer for the purchase or sale of a definite amount of a specified security, shall be executed. In addition, a Registered Representative can provide for purchases and sale during a customer's temporary absence by placing open orders in advance with the customer's consent.

The Firm, however, does allow a Registered Representative to service accounts where a third party, other than the Registered Representative, has the power to trade over the account. With respect to these accounts it is important, once again, to emphasize that a Registered Representative is responsible for learning the essential facts relative to each such account such as the background and extent of power granted to the individual effecting transactions in the account. It is also important to note that the Registered Representative is responsible for securing the necessary documents for such accounts, and the Firm policy regarding obtaining documents necessary to support such accounts may be summarized as follows:

(1) No transactions may be effected in a Power of Attorney account until and unless the Firm has in its possession a valid trading authorization (full or limited), executed by the beneficial owner of the account and the person to whom discretionary power has been granted. Valid trading authorization, therefore, must be obtained and attached to the new account card at the time the account is opened, or the account will be automatically restricted from doing business.

(2) With respect to all other fiduciary accounts (corporate, trust, investment club, partnership, etc.), unless the Firm has in its possession all necessary documents to support the account within thirty (30) calendar days from the date the account was opened, such account will be automatically restricted from further business.

THE OPENING OF ACCOUNTS - PROCEDURE

New accounts are to be opened only at the time of an initial transaction in the account (i.e., a purchase or sell order, or the receipt of funds or securities). In addition, prior to the time a Registered Representative takes any action on behalf of a new account, a completed new account form and the initial transaction order must be approved and initialed by an officer.

As noted previously, the new account form merely serves as a guide by which a Registered Representative acquaints himself with the essential facts relating to his customer. For this reason, it is important that the information contained on the new account form is accurate. The Firm must be able to rely on the information which it contains. A complete new account form, a copy of which is on page 9, must, therefore, contain the following information:

(1) Name of account, and if female, designate Miss or Mrs.

(2) Social Security number or Taxpayer Identifying number.

(3) Citizenship of customer.

(4) Home address with zip code (when obtainable).

(5) Home telephone number (with area code).

(6) Business address with zip code (when obtainable).

(7) Business telephone number (with area code).

(8) Occupation and employer.

(9) Position.

(10) Answer how this account was obtained. If referred, put the name of the account, if such account is in this firm.

(11) Enter how long you have personally know this customer.

(12) One commercial bank and the address of such bank.

(13) Check appropriate box to indicate the type of account at bank identified in item 12.

(14) Other references provided by the customer.

(15) Enter customer's age if customer is under 25 years of age.

(16)(17)(18)(19) Where account is opened in wife's name, occupation of husband and husband's employer and business address must be supplied.

(20) Enter YES or NO with relation to this item.

(21) Be sure the customer signs the form.

(22) Stock Transfer incription and forwarding address, if applicable.

(23) Special mailing instructions, if applicable.

(24) Additional information. Note: If account is being operated by another person with Power of Attorney, indicate if the Power of Attorney is limited or full, give the name and address of the person granted the Power of Attorney.

(25) Date new account form.

(26) Sign new account form.

(27) Have officer approve new account form.

R-714

MRS.
MISS 1
(FULL NAME OF CUSTOMER)

SOCIAL SECURITY NUMBER OR TAXPAYER IDENTIFYING NUMBER 2

CITIZEN OF 3

HOME ADDRESS 4

HOME TELEPHONE 5

BUSINESS ADDRESS 6

BUSINESS TELEPHONE 7

OCCUPATION AND EMPLOYER 8

POSITION 9

HOW WAS ACCOUNT ACQUIRED? 10

HOW LONG HAVE YOU KNOWN CUSTOMER? 11

BANK REFERENCES 12

TYPE OF CHECKING ACCOUNT 13 ☐ REGULAR ☐ SPECIAL

OTHER REFERENCES 14

CUSTOMER'S AGE, IF UNDER 28 15

IS CUSTOMER A MARRIED WOMAN? 16

IF SO, WHAT IS HUSBAND'S NAME? 17

HUSBAND'S OCCUPATION AND EMPLOYER 18

POSITION 19

IS CUSTOMER A CORPORATION OR PARTNERSHIP? 20

21
(CUSTOMER'S FULL SIGNATURE FOR IDENTIFICATION PURPOSES)

NEW ACCOUNT REPORT

IF ACCOUNT IS TO BE TRANSFERRED, PRINT PROPER INSCRIPTION AND FORWARDING ADDRESS 22
(USE UNIFORM ABBREVIATIONS WHERE POSSIBLE)

SPECIAL MAILING INSTRUCTIONS, IF ANY 23

ADDITIONAL INFORMATION

24

DATE 25
(CITY) (STATE)

26
SIGNATURE OF REGISTERED REPRESENTATIVE

APPROVED 27
(DATE)

E. L. AARON & CO., INC.
SIGNATURE OF BRANCH OFFICE MANAGER

50 Broad Street
NEW YORK, N.Y. 10004

CONDUCT OF ACCOUNTS

REGISTERED REPRESENTATIVE'S RESPONSIBILITY TO THE CUSTOMER AND TO THE FIRM

Unlike salesmen in many other fields, the Registered Representative's primary responsibility is not to offer his product indiscriminately, but to be aware of and look out for the best interest of his client. Before making a recommendation, he must determine his customer's investment needs and financial capabilities, and assure himself that any recommendations are consistent with the objectives and resources of the client. The customer's needs may not necessarily by synonymous with his wants, and it is the Registered Representative's responsibility to point out any dangers and pitfalls. In addition, the Registered Representative should use the full facilities available to him in extending the utmost of service to all of his accounts. He owes it to his customers to keep fully abreast of all developments in the financial world in general, and in particular the many corporations about which he may be called upon for information. The Registered Representative must also keep himself aware of all the rules and regulations which govern his business and any changes as they occur, and generally must do all in his power to run his affairs in an efficient, courteous and effective manner.

With regard to the Firm, the Registered Representative should conduct himself at all times, in a manner calculated to maintain the reputation and good name of E. L. Aaron & Co., Inc. He is, of course, expected to adhere to all the regulations and practices laid down by the various bodies to govern his conduct, and to pursue the policies of the Firm at all times.

ADVISING CLIENTS

The true value of a stock is determined by its earning power, dividend-paying ability and in many cases by its assets. It also must take into account a reasonable estimate as to how much, on average, profits and dividends are likely to grow in the future. The intrinsic worth of most well-managed, successful companies does not usually change rapidly. Even though earnings may decline temporarily in some periods and rise faster than normal in others, value tends to increase gradually and fairly steadily -- in reflection of the underlying progress of the business.

The successful management of capital, however, also requires an understanding of the nature and causes of periodic shifts in investor psychology. Investors are as subject to emotional influences as any other group. They tend to get overly optimistic at certain times and unduly pessimistic at others -- especially when most people they talk to and most articles they read express similar feelings. In the stock market, good news about a company or general business generates enthusiasm and prices rise. Bad news does the opposite. Of course, new conditions do affect values at times, and prices shoudl react accordingly. But more often than not, the developments are temporary and have no bearing on the real worth of stocks.

Sensible individual and institutional investors are not influenced by excessive swings in their emotions. They follow the logical pattern of buying high-grade securities and holding them as long-term investments. On the other hand, there are countless others who think they are investors, but in fact are merely traders. They consider stocks as no more than pieces of paper represented by numbers in each day's market quotations. Their idea is to buy at a low number and sell out at a higher one. Usually they know little about the companies themselves, but are only interested in some "hot" news that will make their stocks go up.

Most of our clients would be well-advised to purchase growth stocks to be held on a semi-permanent basis. The retention and plow-back of a large part of earnings at a high profit margin is the basic reason why growth stocks grow. Growth stocks provide (1) the most certain prospects of capital appreciation over a terms of years, (2) the lowest yield at the time of purchase and (3) the highest yield at cost over the long run. Most investors are unaware of the high yield that growth stocks are likely to provide over a period of time. Paradoxically, this characteristic is the result of their low yield at the time of purchase. A typical growth company pays out a relatively small portion of its earnings in cash dividends and retains the balance of its profits to help finance additional research, development of new products, expansion of plant and distribution facilities. If the company financed its expansion externally be selling additional securities rather than internally through retained and reinvested earnings, the per share growth would be diluted. Eventually, the retained earnings which are reinvested in research, new products and additional plant produce added earning power and dividend paying ability. As time goes on, dividends are stepped up and the yield at cost increases. For the investor who does - or could - reinvest rather than spend most or all of his dividends, after he pays income tax on them, this indirect method of forced saving and reinvestment is extremely beneficial. Because of this "internal" method of financing, a diversified list of growth stocks is virtually certain to record greater capital appreciation and greater income over the years than a list of income stocks or a list of cyclical stocks.

With this in mind, it is important that a Registered Representative educate his clientele as to the merits of diversification; the value in dollar cost averaging, and the benefits of acquiring growth stocks on a regular basis. At the same time, it is the responsibility of a Registered Representative to discourage, and advise his customers of the dangers of purchasing securities on rumors; trading in companies which have a small amount of securities issued and outstanding; and trading in low-priced, speculative and abscure issues.

At all costs, a Registered Representative must not "tout" securities. The Securities and Exchange Commission considers it a violation of the anti-fraud provisions of the Securities Act of 1933 and the Securities and Exchange Act of 1934 to recommend a security to a customer where there is no adequate or reasonable basis for the recommendation. Any recommendation to a customer, therefore, must be based on sound statistical, analytical data, and not in the transmittal of gossip or rumor. In addition, a Registered Representative, when recommending a security to a client, must inform the customer of all known facts relating to the security, as well as those facts that are reasonably ascertainable. If there is no current reliable information concerning the security, that circumstance must also be disclosed by the Registered Representative to the customer. Moreover, it goes without saying that in recommending securities, no false statements may be made, nor may there be an omission to state a material fact, however bearish, regarding a security.

A Registered Representative must also not disseminate seemingly factual information passed on to him by sources other than the Firm's Research Department or recognized statistical services such as Moody's or Standard and Poor's, as fact. A Registered Representative must be careful to identify opinions, and impress upon his customers that the recommendations of the Firm issued by the Research Department are just that - opinions. At all costs, a Registered Representative must not contribute to the circulation of rumors. If he has any questions, he should check with the Firm's Research Department first.

RELATIONSHIP BETWEEN A REGISTERED REPRESENTATIVE AND HIS CUSTOMER

When a Registered Representative applies for registration with the New York Stock Exchange, he signs an agreement setting forth the major principals of his future business conduct in relation to his customers. These principals are contained in paragraph 31 of New York Stock Exchange Form RE-1 ("Application for Approval of Employment of Registered Representative"); and may be summarized as follows:

A Registered Representative may not:

(1) guarantee a customer's account against loss.

(2) share in the profits or losses reflected in a customer's account.

(3) borrow from, or lend to a customer.

(4) pay anything of value to anyone for recommending business. This includes excessive entertaining, favors, gifts, etc.

(5) receive anything of value from anyone but the Firm as a bonus, commission, gratuity or otherwise in connection with any transaction by a customer.

(6) agree to any departure from or alteration of any terms or conditions of a customer's agreement without specific written consent of an officer.

(7) rebate to any customer any part of the compensation he receives as a Registered Representative.

E. L. Aaron & Co., Inc. specifically prohibits the violation of the above rules by its Registered Representatives.

In addition, the Registered Representatives are specifically prohibited by E. L. Aaron & Co., Inc. policy from the following:

(1) Warranting or guaranteeing the present or future value or price of any security or that any company or issuer of securities will meet its promises or obligations.

(2) Agreeing to repurchase at some future time a security from a client for their own account, for the account of E. L. Aaron & Co., Inc., or for any other account.

(3) Raising money, or participating in the raising of money for any company, individual or venture without permission of E. L. Aaron & Co., Inc.

(4) Acting as personal custodian of securities, stock powers, money or other property belonging to a client without permission of E. L. Aaron & Co., Inc.

(5) Arranging for the extension or maintenance of credit to or for any client without the permission of E. L. Aaron & Co., Inc.

(6) Enter into any business transaction jointly with a client without permission from E. L. Aaron & Co., Inc.

(7) Forward, or agree to forward, confirmations or statements of account other than to the official post office address of the client.

This list is by no means anticipated to be all inclusive.

PURCHASES OF LOW-PRICED, UNLISTED SECURITIES

It is Firm policy to warn clients dealing is low-priced issues of the risks inherent in such transactions. Over the years we have found such investments to be hazardous. Consequently, the Firm has adopted the following policies:

(1) No Registered Representative may recommend or otherwise solicit the purchase of any security trading at $5.00 per share or less, regardless of whether the security is listed or unlisted without first informing an officer of the Firm.

(2) A Registered Representative may accept an unsolicited order from a customer to purchase securities trading at $5.00 per share or less, however, the Registered Representative should attempt to obtain a letter of non-solicitation from the customer, which confirms that the purchase order was unsolicited and the result of the customer's independent evaluation of the merits of the security.

(3) All purchase order tickets for securities selling for under $5.00 should be marked "solicited" or "unsolicited" which ever is the case.

MASTERMINDING THE MARKET

A Registered Representative must not attempt to "mastermind the market." Orders are either entered at the market or at a limit. All orders must be entered when and exactly as given by the client. In the event unusually large orders are entered, the Firm's Trading Department is always available to assist in handling such orders.

No transfer of securities or funds from one account to another should be effected without the prior written instructions of the customer. Whenever such a transfer is approved and made, both sides of the transfer should receive notices. The customer should be advised in advance that commissions must be charged if the transfer is for value and, that applicable transfer taxes must be paid where there is a change of ownership.

MANIPULATION

Both the spirit and the letter of the Securities and Exchange Act of 1934 prohibits a broker-dealer from engaging in any manipulative practice. A Registered Representative must scrutinize orders with great care to insure that the Firm accepts no instructions from clients that may be construed as manipulative in purpose. Be particularly cautious about any series of buying orders in one stock entered at consistently rising prices during the course of a day, or any client who, two or three days in a row, enters buying orders at the market a minute or so before the close in a particular stock, causing it to close on the upside. If a Registered Representative has any suspicion whatever that the client's purpose in entering an order is to effect its price or volume, he must refuse to accept it and should report the matter to an officer.

REGISTRATION REQUIREMENTS

It may be generally stated that all offers and sales of securities (whether listed or unlisted) by an issuing corporation or by persons in a control relationship with issuers, are, with minor exceptions, subject to the registration requirement of Section 5 of the Securities Act of 1933.

This means generally, that no such securities may be sold without an effective registration statement filed with the Securities and Exchange Commission (SEC) or without delivery of an official prospectus, which must accompany or precede the confirmation of the sale. Additionally, except under quite special circumstances, securities purchased "for investment" may not be sold by the holders in the absence of registration, an appropriate opinion of counsel, or an SEC "no action" letter.

Whether or not persons stand in a "control relationship" with an issuer is in most cases fairly obvious. They include, for example, every officer and, presumably, every director of the issuer. But the SEC concept of control is very broad and includes the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of an issuer, whether through the ownership of voting securities, by contract, or otherwise. Under this definition, if a person is a member of a controlling group, he bears a control relationship with the issuer, no matter how relatively few in number his voting shares may be. For example, this might conceivably apply to a close relative of a person in management of the issuer. It should also be borne in mind that a substantial stockholder can bear a control relationship to an issuer without owning a majority of the outstanding voting securities. The crucial question is whether or not he enjoys a relationship with the issuer not shared by stockholders generally. If he diesm thus is a sufficient indication of the possibility of a control relationship for the matter to be referred to an officer of the Firm.

INVESTMENT STOCK

Generally speaking, if a person purchases securities from an issuer, any resales of such security, by the purchaser would be subject to the registration requirements of Section 5 of the Securities Act of 1933, unless, at the time of purchase, a registration statement was filed with the SEC. In the usual case, in the absence of registration, the purchaser acquires the securities for investment and not with a view to resale, and will, at the time of purchase, give the issuer or controlling person a written statement representing that he is purchasing the securities for investment, and that he will not offer or sell the securities in the absence of registration, unless an exemption is available with respect to such sales. This written statement is commonly called the "Investment Undertaking," or "Investment Letter." Additionally, it is not uncommon in such situations for the issuer to place a restrictive legend on the certificates is the absence of an opinion of appropriate counsel of an SEC "no action" letter.

This restriction against resale in the absence of SEC registration applies to a person even though he bears no control relationship with the issuer. And, before he can sell his securities without SEC registration he must establish that, when he made the purchase, he did so with an investment intent. To sustain this burden, he must be able to demonstrate that he has carried out his investment undertaking. He can do this in two ways. One is by showing that the period between the time he acquired the securities and the time of the proposed resale establishes that his purchase was for investment. Although the SEC has stated that it will not specify any minimum period which, of itself, would establish an investment intent, it is clear that if the customer has held the securities for less than three years, it would be difficult to conclude that the SEC would be satisfied that the lapse of time alone establishes investment intent. To the extent the period exceeds three years, the problem becomes simplified. The second way a customer can at the time of resale establish an initial investment intent is to demonstrate that unanticipated events of a meterial nature have occurred to impel him to change his investment intent. Whatever these experiences might be in a given case, they should not, in the opinion of the SEC, be based primarily on an advance or decline in market price, a change in the issuer's operating results, or the inability of the purchaser to repay loans incurred in connection with the purchase of the security.

In all cases in which a customer proposes to sell securities he previously purchased upon an investment undertaking, the order may not be accepted or executed without prior approval of an officer and only after the securities have been transferred in such name and form so as to enable the Firm to make good delivery according to the customs and usages of the market place. Moreover, in almost all such situations, the Firm will require that the customer obtain an opinion of counsel and an SEC "no action" letter.

SALES OF A SUBSTANTIAL AMOUNT OF A SINGLE SECURITY

The Securities and Exchange Commission points out that a firm or Registered Representative who accepts orders to sell a substantial amount of securities (whether listed or unlisted) without registration must take whatever steps are necessary to be certain that the firm is not engaged in transactions in which the securities have emanated from an issuer, a person in a control relationship with an issuer, or an underwriter for either of them. Inquiry is not deemed adequate if it consists only of accepting self-serving declarations of the sellers or their counsel without exploration of the possibility of contrary facts. The amount of inquiry varies with the circumstances. If the firm or Registered Representative is requested to sell or is offered a modest amount of a widely traded security by a responsible customer whose lack of relationship with the issuer is well known to the Registered Representative, then he may ordinarily proceed with considerable confidence. However, if the firm or Registered Representative is requested to sell or is offered a substantial block of a little known security by persons who appear reluctant to disclose where the securities came from, or under circumstances which afford indications that the seller may be merely an intermediary for an issuer, or a controlling person of an issuer, or an underwriter for either of them, then searching inquiry is required. Accordingly, any sell order of that nature may not be accepted or executed without prior officer approval.

ACCOUNT ACTIVITY

Excessive and disproportionate activity in a client's account is frequently called "churning," and can subject you, and the Firm, to criminal as well as civil liability. A Registered Representative must exercise extreme care to avoid stimulating unnecessary trading in stocks and should discourage clients from engaging in excessive activity. It should be pointed out to clients that such activity is rarely profitable.

REGISTERED REPRESENTATIVE'S RECORDS

In order to properly service the accounts of clients, it is necessary to maintain records which detail all transactions and which also contain other pertinent data. The basic form is commonly called the Client's Portfolio Record. This contains the client's name, address, account number and transactions, as well as the client's telephone number, notations of any special instructions pertaining to the account.

In addition to the maintenance of the Client's Portfolio Records, each Registered Representative should also maintain a cross-index file, alphabetically by security, detailing the interests of clients in each security. In the event an announcement concerning a particular company is published, you will be able to quickly transmit the news to those of your clients having an interest.

REGULATION T

It is the policy of the Firm not to accept orders financed through factors or money lenders which are not duly organized banks. Registered Representatives are prohibited from arranging, directly or indirectly, with anyone for the extension or maintenance of credit to a customer. They may not introduce a customer or prospective customer to factors, money lenders or their representatives, or to banks for the purpose of loans relating to securities transactions, and they arenot to offer any suggestions, advice or instructions to any customer on financing the purchase of or the carrying of securities through factors, money lenders or banks. In addition, a Registered Representative may not, on behalf of any customer, transmit messages from or to a customer to or from any factor or money lender.

Under Regulation T, a purchase made by a customer in a cash account is permissible only if (1) there is sufficient cash in the account for the purpose, or (2) the customer makes full payment by the settlement date of the transaction and does not sell the purchased securities prior to making payment for them. In the event a customer purchases securities in a cash account without sufficient funds in the account for the purchase price, and then sells all or any part of them prior to making payment of the purchase price, no additional purchases may be made in that account for a period of 90 days.

PREPAYMENTS

It is the policy of the Firm and National Association of Securities Dealers regulations, not to make prepayments to customers on sales. Customers are not entitled to receive the proceeds of sales prior to the settlement date. The Firm will, however, on rare occasions, permit a prepayment to be made when the security sold is in our possession, and properly endorsed and negotiable. In such cases, we will charge interest, and this interest will be deducted from the proceeds.

ERRONEOUS REPORTS

The policy of the Firm is that orders are binding at the price at which they are executed, notwithstanding the fact that a report of a different price may have been rendered. Similarly, if a report is given when, in fact, there has been no execution, we are held to the report. This policy is followed because the Firm recognizes that occasional errors by traders or order clerks or wire operators are unavoidsble.

EXECUTION PRICE GOVERNS

Do not undertake to give a client a report of an execution because you have seen stock trading at his price. It may not be his execution or it may be a mistake.

RESPONSIBILITY FOR DELAYS

The Firm will make every effort to handle orders as promptly as possible, but it will not be responsible for delays beyond its control. The Firm will not be responsible for wire or mechanical failures or delays, nor will it be responsible if an order is delayed because of a heavy volume of orders or other traffic which may be ahead of the order.

EXTENSIONS

Under special circumstances where, for legitimate reasons, payment for a pruchase may not be forthcoming from a customer by the due date, the Firm can apply to the National Association of Securities Dealers, Inc. for an extension of time, which rarely amounts to more than a few days. However, in order to obtain this extension, complete and legitimate reasons which are acceptable to the N.A.S.D. must be listed. It is the responsibility of the Registered Representative to determine these reasons and inform the back office. In this case, payment must be received by the due date of the extension. Note that extensions are measured in calendar, not business days, and all second extensions, except under unusual circumstances, will be accompanied by a sell-out wire.

DRAFT CHARGES

It is important for any Registered Representative doing business with a customer whose securities are to be delivered outside the metropolitan area, to advise the customer that his account will be charged for all special handling costs. In general, all fees incurred through out of town deliveries or transfers may be charged to the customer.

GOOD DELIVERIES

It is important that all securities received from customers be ingood negotiable form. A Registered Representative must advise his clients to endorse their securities properly when delivering them to us. If the client is reluctant to send endorsed securities through the mail, have him send in the unendorsed certificates, followed by signed stock powers be separate mailing. These powers are available in all branch offices.

The responsibility for delivering securities to us rests with the client. Do not undertake to have customers securities picked up or delivered by the Firm's runners

Securities will not be accepted for sale unless accompanied by adequate proof of ownership (i.e., a delivery bill). Similarly, clients arenot permitted to withdraw securities in a "street name" except under unusual circumstances and where such withdrawals have been approved by an officer of the Firm. Under proper circumstances, we will deliver securities to a bank against payment. The Firm, however, will not ship securities draft attached to and out-of-town bank unless the shipment is for the account of a client of unquestioned financial responsibility, and where we are certain the bank will honor the draft immediately. Any such items require the prior approval of an officer of the Firm.

CUSTOMER'S COMPLAINTS

Customer's complaints will vary in nature and size, but even the most minor of complaints are frequently magnified into major issues in the eyes of the customer when the complaint is not properly handled. The most important element offered to the public by this Firm and its Registered Representatives is service, and it is not in the best interest of any Registered Representative of the Firm to have complaints registered against them. Therefore, all Registered Representatives should immediately bring to the attention of an officer, any complaint, large or small, oral or written. The Firm will endeavor to satisfy the customer's anxieties in a competent and courteous manner.

CORRESPONDENCE

Section 27A of the N.A.S.D. Rules of Fair Practice and New York Stock Exchange Rules 342.16 and 405(2) require that a copy of all correspondence going out of an office be initialled by the appropriate supervisor or officer and retained in a permanent file for a period of not less than three years, the first two years in an easily accessible place (SEC Act 1934, Rule 17a-4).

All correspondence from a Registered Representative to a customer must, therefore, be submitted to an officer for approval prior to mailing. The officer must indicate his approval by initialling the file copy of the letter.

GENERAL HOUSE RULES APPLYING TO ALL EMPLOYEES

1. All Registered Representatives and employees are responsible to attend all business meetings called by any officer of this Firm. Absence from a meeting will only be allowed by securing the permission of the officer who calls the particular meeting.

2. All Registered Representatives shall be in this office by 9:30 a.m. They shall also be at their desks or available in the office until 4:00 p.m.

3. When leaving the office for any reason whatsoever during the day, Registered Representatives will notify an officer, or such person as an officer shall direct, of his absence and of the approximate time that he will be gone, as well as who is to cover his calls during his absence. In the event that a Registered Representative will not be in or will be late, he must so inform one of the officers.

4. Upon leaving the office every evening, the Registered Representative will make sure that his desk is left in a neat and orderly condition.

5. The Registered Representative is responsible for posting his customer's business in the customer's record book and for kee]ing his customer's cash book and position book up-to-date daily. This book will be inspected from time to time by the officers of the Firm for neatness, legibility and accuracy.

6. The Registered Representative will at no time enter a verbal order with the Order Room. All orders must be properly printed in ink, on the specified order forms. Any cancellations or changes of prices on orders must be printed out on a new order form. The type of account: cash (1). margin (2), short (3), etc. must be indicated on all orders. On all sell orders, the Registered Representative must print on order whether sale is long or short.

7. No Registered Representative will be authorized at any time to call any other securities firm, whether a member of an Exchange or operating Over-the-Counter for the purpose of procuring quotations. Order and other communications relating to trades must be entered through the "Order Room" only.

8. On the last business day of each month, each Registered Representative must submit to the Order Room an accurate up-to-date list of his "open" buy and sell orders. This list is to be written in duplicate. The Registered Representative should retain the duplicate copy for his own records.

9. All corrections on orders already executed will be made out in duplicate by the Registered Representative on the form provided.

10. All corrections of errors on quarterly statements will be made out in duplicate by the Registered Representative on the form provided.

11. Each Registered Representative will receive a duplicate copy of each quarterly statement for each of his accounts. The Firm suggests that on active accounts, the Registered Representative keep a running balance to determine buying power. Any Registered Representative who does not know how to do this will please see an officer for instruction. All active accounts should submit a trading activity acknowledgement. This form can be obtained from the Firm's Counsel's office.

12. All correspondence, whether to clients or others, on Firm stationery or on behalf of the Firm on personal or blank stationery, (whether handwritten or typed) MUST be approved by an officer BEFORE MAILING.

13. No Registered Representative or trainee is permitted at any time to enter the Order Room or private offices in the Firm, unless by invitation.

14. A Registered Representative handling his wife's or his own account must have every order in that account signed by an officer before it is entered. Every Registered Representative is responsible for knowing the rules of the N.A.S.D. relating to his own trading or account in which he has interest. If you are not familiar with these rules, it is essential that you study them immediately.

15. A Registered Representative will receive a summary of purchases and sales and the net position of the personal account of himself and his wife. No extension of time and no "liquidation" may be sought or will be granted with respect to the account of any Registered Representative or of his wife. If, at any time, it becomes necessary to secure an extension or effect a liquidation in any such account, the account will be restricted from trading for six months.

16. On all orders where the aggregate dollar amount of the purchase or sale is $5,000.00 or more, approval for the order must be secured from any of the officers of this Firm before being entered.

17. There will be no "short" sales of any listed or over-the-counter securities for any accounts until the Registered Representative has checked with an officer to ascertain whether such securities may be borrowed against the "short" sale. All "short" sales must be approved by an officer prior to execution.

18. All Mutual Fund transactions will be purchased directly from the respective fund, the Order Room will handle these transactions in the usual manner with a written order ticket entered by the Registered Representative.

19. Fractional Stock Dividends - in the event an account of a Registered Representative has stock which paid a fractional share dividend, it is his responsibility to first keep his position book up-to-date to know which stocks pay the fractional stock dividends and to ask the account whether it wishes to sell the fractional share or purchase additional fractional shares to round out the fraction to a full share. The Registered Representative must do this before the cut-off date which the individual company designates (this can be found in the Standard & Poor's Daily News Record Book).

These instructions to buy or sell the fractional share are given on standard margin instruction forms and not through the Order Room. The Registered Representative is also responsible for the rights before expi ation, in the event of a sale by his client.

20. Registered Representatives will be responsible to notify their client regarding expiration dates of any options (puts, calls, straddles, etc.)

21. In the event a Registered Representative has a sell order in a security from an "insider control group" (as defined in Section 154 of the SEC Act) he will immediately bring this order to the attention of the Firm's Counsel's office before entering same so that he may obtain from the Firm's own Counsel on opinion concerning the legality of the order and what papers may be necessary for the files with regard to this order.

22. It is required by this Firm that Registered Representatives and trainees read Rules 345, 346 and 347 of the New York Stock Exchange fully. These rules can be found on pages 3587-2 through 3592 of the New York Stock Exchange Constitution and Rules (January 16, 1961).

These rules are similar to the N.A.S.D. requirements and are particularly pertinent to the conduct of Registered Representatives and should be carefully reviewed and strictly adhered to. No order will be accepted from any person other than the direct owner of the account, i.e., (do not accept husband's account from the wife). If such a situation should arise, there must be on file from the direct owner of the account, a power of attorney to the person transmitting the orders. In the absence of this power, you must not accept an order other than from the direct owner of the account.

23. Accounts - Any Registered Representative who has an Investment Club as an account must obtain the special investment account form from the cashier. This form must be completed in duplicate by the Club members and returned to the Firm.

When effecting the transfer of an account from another firm to our Firm, all Registered Representatives will open a new account at this Firm and attach a copy of the last statement at the other firm.

When opening an account with a "sale," always require the customer to present the stock certificates and proof of ownership before the order is accepted.

24. The Registered Representative and Operations - Any problems regarding account, etc., should be taken up with an officer of the Firm for solution.

On all written instruction sheets to Back Office, the full name and account number of the account must be written out clearly.

Under no circumstances is a Registered Representative to suggest that any of his clients may or should contact our back office for any reason. Clients are to deal only with the Registered Representative, and if a Registered Representative cannot give the client all the information he wants or is unable to satisfy the client in any other respect, the client should be referred to an officer of the Firm who will make every effort to satisfy his needs.

All sales to cover purchases must be done on the same day as the purchase.

Transfer and shipping procedure: In the event a Registered Representative has put in transfer and shipping instructions on a purchase, and he subsequently sells the stock before the client receives the stock, the following procedure will be followed:

a. The Registered Representative should notify the back office by memorandum as to whether it can rescind the transfer and shipping instructions.

b. If this cannot be done, the Registered Representative should request the back office to hold the stock certificate and he should send out immediately to his account stock powers for the account's signature, requesting that the signed stock powers be returned to him personally. The account should be supplied with a stamped self-addressed envelope so that there will be no delay in payment of the account and delivery to the buying broker.

25. Underwritings (New Issues), N.A.S.D. Regulations -

1. The following is the interpretations with respect to "Free-Riding and Withholding," which deals with distribution of new issues. Every Registered Representative should be completely familiar with the same. If there are any questions regarding this section, you should contact the Firm's Counsel's office.

2. If a client of a Registered Representative has purchased a new issue from the Firm at the issue price, and is desirous of purchasing new stock in the "after market" within forty (40) days from the date of issue, the Registered Representative must receive a "non-solicited" order from the client.

3. No preliminary prospectus (red herring) or any other type of material pertaining to a new issue will be mailed to a client without the permission of the Syndicate Department.

4. The Registered Representative, when selling a new issue to a client, is responsible for checking with the Syndicate Department to determine in which states the issue may be sold, and at no time will a new issue be sold by a Registered Representative to a client living in a non-qualified (Blue Sky) state.

5. For further information, contact the Firm's Counsel's office in regard to "N.A.S.D. Free-Riding Interpretation."

I have read, clearly understood, and will keep in my possession the House Rules as written by E. L. Aaron & Co., Inc., and will conform to said rules to the best of my ability and with full intent to strictly adhere to them at all times.

NAME

DATE

DEFENDANT'S EXHIBIT "L"

Ex L

August 12, 1971

Registration Division
National Association of Securities Dealers, Inc.
1735 K. Street, N.W.
Washington, D. C. 20025

Gentlemen:

I am writing this letter to request an exemption from registration as a principal for Peter E. Aaron, previously Assistant Secretary of E. L. Aaron & Co., Inc., 15 William Street, New York, New York 10005. Mr. Aaron served as Assistant Secretary from 1961 until his resignation on August 6, 1971. Mr. Aaron presently is a trader and Syndication Manager for the Firm.

There are presently approximately nine full-time employees at E. L. Aaron & Co., Inc., as follows: two traders; one Registered Representative handling customer's accounts; one cashier; one assistant cashier; three back office clerical workers; and one full-time runner.

The two traders are Edward L. Aaron, President of the Firm and Peter E. Aaron. Edward Aaron is responsible for the supervision of all trading, including that done by Peter Aaron. Edward Aaron is also responsible for the supervision of the Registered Representative handling customer's accounts and of any and all customer's accounts handled by traders, including those handled by Peter Aaron. Additionally, Edward Aaron is responsible for the supervision of the work of the cashiers and of the entire back office.

Thus, Peter Aaron is not responsible for the supervision of any employees of the Firm. As Syndication Manager, he is not [illegible] with supervision of any employees. Peter Aaron will retain the power to sign corporation checks.

In view of the above, it is respectfully requested that Peter E. Aaron be granted an exemption from registration as a principal. If any further information is required in this or any other regard, please contact me. You may rest assured of my cooperation.

Very truly yours,

DAN BRECHER

DB:ve

DEFENDANT'S EXHIBIT "M"

NASD

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

1735 K STREET NORTHWEST • WASHINGTON D.C. 20006

August 26, 1971

Mr. Dan Brecher
575 Lexington Avenue, Suite 2601
New York, NY 10022

Re: Peter E. Aaron

Dear Mr. Brecher:

We have your letter of August 12 which is not quite clear as to your intent regarding Mr. Peter E. Aaron.

Mr. Aaron is currently registered with E.L. Aaron & Co., Inc. as a Registered Representative. As an Assistant Officer of this firm he would not ordinarily be required to be qualified as a Principal. Mr. Aaron, apparently, has been designated as a Trader and a Syndication Manager for the firm, a position that also would not necessarily require Principal status.

However, if subject is to be made a full officer of E.L. Aaron & Co., Inc. or if the firm elects to seek Principal status for him, full compliance with our requirements will have to be met and he will accordingly be required to complete the Principals examination as a prerequisite to Principal status.

Very truly yours,

Ralph T. Goetz, Director
Registration Department

PLAINTIFF'S EXHIBIT "1"

J.W. WELLER & CO., INC.

OK JW

X-23 S

OFFICE 14/16 ACCOUNT NO.	17-21	R.R. 22-23	TRADER 22-23	THRU	CANCEL
W05 - 1810	-1	01			

CUSTOMER NAME: Daniel Dorfmann

ACCOUNT OF:

SOLD TO: E L Aaron

ADDRESS:
34 CANTERBURY RD
WOODBURY NY 11794

QUANTITY	29-35 DESCRIPTION	PRICE	37-42 PLUS/LESS
1000	Lawn-A-Mate Chem & Equip.	.27	

AS OF DATE:

TRAILER INFORMATION 43-80:

SPECIAL INSTRUCTIONS:

REMARKS:

- ☒ UNSOLICITED ORDER
- ☐ NEW ACCOUNT
- ☐ PROSPECTUS REQUIRED
- ☐ CUSTOMER HAS STOCK IN VAULT IN GOOD DELIVERABLE FORM AND WILL DELIVER IN 5 DAYS
- ☐ GUARANTEED DELIVERY
- ☐ STOCK IN SAFEKEEPING
- ☐ WE ARE A MARKET MAKER IN THIS SECURITY
- ☐ LISTED - NSE - NYSE - ASE - OTHER
- ☐ O.T.C.

CODING	
SECURITY 2-6	51850
TRANS, BLOTTER 11-12	3-1
BROKER NO 24-27	3025
DATE CODED 13	2

SETTLEMENT DATE:

	S	K.P.	PREFIGURED
AMOUNT 43-51			270 —
LISTED SEC. FEE 52-53		+ 52	
ST. TAX / NO TAX ✓ 55 / NON RES (X) 67			
INTEREST 55-60			
COMMISSION 61-66			20 —
SPLIT COMM. (60/40) 67-71		X 68	
NET AMOUNT 72-80			250 —

PLAINTIFF'S EXHIBIT "2"

PL. EX. #2

[illegible] J.W. WELLER & CO., INC.
230 BROAD STREET
BLOOMFIELD, N.J. 07003

TELEPHONE
212-205-9090

[illegible]	[illegible]	[illegible]	TRANS NO	CODES	SETT	TRADE DATE	SETTLEMENT DATE	[illegible]
	51850	W05-1810-1	15			11-21-74	11-29-74	

IDENTIFICATION NO.	[illegible] PARTY	[illegible] NUMBER	SPECIAL DELIVERY INSTRUCTIONS
	E L AARON & CO 50 BROAD ST 18 FLR NEW YORK N Y 10004	3025	

[illegible]	QUANTITY	CUSIP NUMBER	SECURITY DESCRIPTION	NET AMOUNT
LD	1,000		LAWN A MATE CHEM	270.00

NEW ACCT

PRICE	PRINCIPAL		INTEREST / TAX
.27			

PLAINTIFF'S EXHIBIT "3"

PL. EX. #3

COMPARISON-ORIGINAL

E.L. AARON & CO., INC.
50 BROAD STREET
NEW YORK, N.Y. 10004

Tel.: Digby 4-21[illegible]
CASHIER'S PHONE: 2[illegible]

13

[illegible] 11/23/76

J W Heller & Co
230 Bloomfield St.
Bloomfield N J 07003

BOT	1000	Lewa A Nat Chem

.27	270.00	

A-739

PLAINTIFF'S EXHIBIT "10"

[illegible] Trust

Pl. Ex.# 10

DATE 1974	ITEMS	FOLIO	DEBITS	DATE 1974	ITEMS	FOLIO	CREDITS
Nov. 15.	J. S. Oliver & Co 4000	3/16	750.00	Nov 18	Norton Komensky 1500	.29¼	1327.50
[illegible]	J. S. Oliver & Co 2000	.20	400.00	[illegible]	Norton Komensky 1500	.30¾	431.25
[illegible] 18.	J. S. Oliver & Co 3000	1/4	750.00	8000	Norton Komensky 2000	.34	680.00
	~~[illegible]~~			9000	Norton Komensky 1000	.37½	375.00
11000	J. S. Oliver & Co 2000	.27	540.00	9500	Norton Komensky 500	.34½	172.50
12000 29.	J. W. Miller & Co 1000	.27	270.00	10500 18.	Joseph Rose Wilson 1000	3/8	362.50
			2710	113[illegible] 19	Anthony & Mary [illegible] 200	.40	310.00
	Stock Tran.		1413.75	[illegible] 20	Edward Wilson 400	.40	155.00
			[illegible]	[illegible] 21	Dr. Gideon & Ewing 200	.45	131.25
	Oliver & Co		[illegible]	[illegible]	Dr. [illegible] 300	.45	131.25
	No [illegible]		[illegible]	[illegible]	Joe Marks 1000	.45	437.50
			[illegible]	15300 26	Norton Komensky 2000	.44½	[illegible]
							[illegible]
				Dec	Short	[illegible]	1012.75
Dec. 6.	J. S. Oliver & Co 3000	.35	1050.00	[illegible] 6	Norton Komensky 2800	.43½	[illegible]
[illegible]	American Intl 2000	.33	660.00	[illegible]	Norton Komensky 1000	.43¼	[illegible]
[illegible]	American Intl 3000	5/16	937.50	[illegible] 16	Norton Komensky 2000	.27	540.00
[illegible] 13.	American Intl 2000	.30	[illegible] 26	[illegible] 17	as of 12/9/74 400	½	[illegible]
	[illegible]		[illegible]	[illegible] 20	500	½	[illegible]
	Profit		[illegible]				
1975				1975			
Jan 10	1500	3/8	562.50	Jan 10	500	9/16	[illegible]
[illegible] 13.	American Intl 500	.35	175.00		1000	9/16	[illegible]
[illegible]	150	[illegible]	[illegible]		1000	[illegible]	[illegible]

A-740

NAME [illegible]
ADDRESS

Terms
Rating
Credit Limit

DATE 1975	ITEMS		FOLIO	✓	DEBITS 793 75	DATE 1975	ITEMS		FOLIO	✓	CREDITS 733 5 –
Jan 20	Morton Kaminsky	2000	7/16		875 00	Jan 10.		500	1/16		275 00
1250		1000	.40		400 00	Jan 9.		1000	9/16		550 00
[illegible]		1500	.40		600 00	[illegible]		200	9/16		110 00
	Conn Ameris Dstl				9 70	5200		1000	9/16		550 00
7500 22	Herzog	500	1/2		250	5600		400	9/16		220 00
930	Quilsmore	2200	1/2		1100	[illegible] 13.		500	1/2		243 75
1000	Tierney	1000	47		470 –	[illegible] 15	as of 1/7/75.	200	9/16		110 00
27	~~Quinones~~	~~1200~~	9/16		~~[illegible] 50~~	[illegible]	as of 1/7/75	600	9/16		330 00
11000		1500	1/2		750	8100 22		1200	5/8		735 –
12500		600	1/2		300 –	9100		1000	5/8		612 50
[illegible] 29		6000	1/2		3000	[illegible] 23		1000	3/4		737 50
[illegible] 30	Herzog	500	1/2		250 – 6193 45	13100		[illegible]000	3/4		2212 50
						13200 24		200	3/4		147 50
	Short	1950	7/8		1[illegible] 65 10017 93	14300		1000	3/4		737 50
						14600 27		300	3/4		221 25
	[illegible]				10778 [illegible]	14900		300	3/4		221 25
	[illegible]				[illegible]	15[illegible]		1000	3/4		737 50
					1[illegible]13 93	17500 28		2000	3/4		1475 –
						18000 30		500	3/4		368 75
						[illegible]		500	3/4		368 75
						11300		400	3/4		295 –
						[illegible] 31		500	3/4		368 75
						19[illegible]		100	3/4		73 75
						20[illegible]		1000	3/4		737 50 13[illegible]8.13 [illegible]

A-741

Sheet No.

Terms

Rating

Credit Limit

NAME Sarow G Mat

ADDRESS

Account No. 103

DATE 77	ITEMS		FOLIO	√	DEBITS	DATE 19 75	ITEMS		FOLIO	√	CREDITS
Feb 3	Emburos	500	9/16		307 74	Feb	Short	1950	5/8		1219 48
2190 5		1600	47		752 —	2150 3		200	3/4		147 50
2300 6		200	3/4		150	2550		400	3/4		295 —
2800 10	Herzogl.	500	5/8		312 50	3050		500	3/4		368 75
2900		100	3/4		73 75	3250 4		200	3/4		147 50
					1592 49						
7900 13	JW Weller	5000	41		2050	3400 5		150	3/8		84 37
					3642 49						
~~8000 15~~	~~Carol Burger~~	~~100~~	~~5/8~~		~~62 50~~	4400 6		1000	3/4		737 50
9100 25		1200	3/4		900 —	4500 7		100	3/4		73 75
9200		100	7/8		87 50	5100		600	3/4		442 50
10200		1000	3/4		750 —	6100		1000	3/4		737 50
15200 26	WELLER	5000	41		2050 —	6200		100	3/4		73 75
16200 27	MS WIEN	1000	1/2		500 —	6400		200	3/4		147 50
					7922 77	7400 10		1000	3/4		737 50
	Paid Bags				1596 05	8400		1000	3/4		737 50
					[illegible]	9400 11		1000	3/4		737 50
					11725 10	9800 14		400	3/4		295 —
						10400		600	7/8		517 50
						10500		100	7/8		86 25
						11500 19		1000	3/4		737 50
						12500 20		1000	3/4		737 50
						12800		300	3/4		221 25
						14000 27		1200	3/4		900 —
						15200		1200	3/4		885 —
						16200		1000	3/4		737 50
											11725 10

A-742

LADY C [illegible]

Terms

Rating

Credit Limit

75	ITEMS		FOLIO	✓	DEBITS	DATE 19 75	ITEMS		FOLIO	✓	CREDITS
Mar 6	M.S WIEN	1000	3/4		750 —	Mar 3		500	3/4		368 75
[illegible]	"	1900	5/8		1187 50	[illegible]		500	3/4		368 75
	BONDED FL	1000	3/4		750 —			1500	3/4		1106 25
7	WELLER	10000	.41		4100 —	3300 ✓		800	3/4		590 —
10	HERZOG	1000	13/16		812 50			1200	3/4		885 —
	M KOMINSKY	2400	.75¼		1806 —			200	3/4		147 50
	ERNEST M	1000	3/4		750 —	6		100	3/4		73 75
	"	1000	7/8		875 —			2000	3/4		1400 —
	"	3000	3/4		2250 —			1000	3/4		737 50
	"	~~500~~	~~7/8~~		~~437 50~~			2000	3/4		1475 —
	"	~~[illegible]~~	~~7/8~~		~~[illegible]~~			700	3/4		516 25
	"	~~[illegible]~~	~~[illegible]~~		~~[illegible]~~			500	3/4		368 75
11	MS WIEN	1000	1		1000 —			2000	3/4		1475 —
	HERZOG	300	1		300 —	1300 10	ERNEST M	500	1 1/8		556 25
		1000	3/4		750 —			1000	1		987 50
12	BI PLANE	200	1		200 — 15 5[illegible]			1500	1 1/8		1668 75
17		1000	1 1/8		1125 —			500	7/8		431 25
19	M.S WIEN	200	1		200 —			500	1		493 75
20	" "	1800	1		1800 —			5000	1 1/8		5562 50
	BI PLAN	500	7/8		437 50	2600 11	M KEMINSKY	2600	1.24¾	✓	3243 50
		700	3/4		525 —	12		100	1 1/4		123 75
21	BI PLAN	500	7/8		437 50			500	1 1/4		[illegible] 61[illegible] 75
	CXL	1000	1 1/4		1253 —			600	1 1/4		742 50
24		1000	7/8		875 — 22 [illegible] 00	2620 13		400	1 1/4		495 —
31		1000	1		1000 — 23 [illegible]			100	3/4		73 75
	[illegible]	1000	1 1/8		[illegible]			500	3/4		368 75
					24 [illegible] 50	14		300	1 1/4		371 25
	[illegible]				27[illegible]			1000	1 1/4		1237 50

A-743

Credit Limit

ADDRESS [illegible]

Date	Items	Qty	Price	Debits	Date 19 75	Items	Qty	Price	Credits
					MAR 17		100	1 3/8	136 25
					[illegible]		100	1 1/4	123 75
					[illegible] 18		500	1 3/16	581 25
					[illegible]		400	1 3/8	545 —
					[illegible]		200	1 3/8	272 50
					[illegible]		1000	1 3/8	1362 50
					2400 24		1000	1 1/4	1237 50
					[illegible] 25		200	1 1/4	247 50
					[illegible]		1000	1 1/4	1237 50
									[illegible] 445 71
APR 2		500	3/4	378 —	Apr	Short	1100	1 1/8	1[illegible]37 [illegible]
1000 4	VILAS	500	3/4	375 —	1600 7		500	1 1/4	618 75
1900	FRIEDMAN M	900	15/16	843 75	2600		1000	1 1/4	1237 50
2400	A/C 3/26	500	7/8	437 50	[illegible] 8		300	1 1/4	371 25
2900 8	BI PLAN	500	1	500 —	3000 10	H. GRABER	100	1	9[illegible] 75
3300 9		400	15/16	375 —	3100	M. DI PASCALE	100	1 1/8	111 25
3600	GRUNTAL	300	3/4	225 —	3300 16	V. HANNER CO	200	1	197 50
4100	MS WIEN	500	3/4	375 —	3500 17	J. CAZEL	200	1	197 50
4600 11	CXL [illegible]	500	1 1/4	625 —	3800 21	R+F FREDERICKSEN	300	1	296 25
7600 23	L. PANZA	3000	3/4	2250 —	6800 23	G. ORNSTEIN	3000	7/8	2537 50
[illegible] 29	SELL OUT	1000	3/4	[illegible] 75	7300	R+H GREEN	500	1	493 75
	Short	800		7134 [illegible]	7600 24	G. REVEK	1300	1	12[illegible] 75
	Refund NS			[illegible]	[illegible] 28	W. RIDWELL	200	1	197 50
				42 —					
	[illegible]			[illegible]					

A-744

[illegible]

75	ITEMS		FOLIO	DEBITS	75	ITEMS		FOLIO	CREDITS
MAY 6	BI PLAN	200	7/8	175 -	MAY	SHORT	200	1	200
[illegible] 9	S+A GLASER	2000	3/4	1500 -	[illegible] 1	F. DUGGAN	800	1	790 -
[illegible]	W. WIDMER	2000	3/4	1500 -	[illegible] 6	A. BROWN	500	1 1/8	556 25
5000 19	D. ALLIEGA	800	3/4	3175 - 600 -	1600 8	R. BEISINGER 1400	100	1 1/8	111 25
6000 20	S+A GLAZER	1000	5/8	625 -	[illegible] 9	R. LITTEKEN	600	1 1/8	667 50
[illegible] 21	J.W. WELLER	500	5/8	312 50	4200	G. ORNSTEIN	2000	7/8	1725 -
					4700 16	A. LA BELLE	500	1 1/8	4050 - 556 25
				4712 50	5700 20	E. KRAVITSKY	1000	3/4	737 50
	NJ			588 37	5900 27	L. WILSON	200	1	197 50
	Profit			5548 [illegible]					5541 25
				5841 25		Long	600	1/-	300
									5841 25
June 1975	Long	600	1/ ✓	300 -	JUNE 6	J. FIDA	500	15/16	462 50
JUNE 3	BI PLANNING	450	1/2	225 -	1500	J+J SPIERS	1000	.80	787 50
1150 4	E. WALSH	800	5/8	500 -	2000	" "	1000	7/8	862 50
2350 6	M. BOYD	500	3/4	375 -	[illegible] 9	P. PUDICS	1000	.80	787 50
2750 11	SHIELDS CO	400	5/8	400 250 -	3750 23	D. LIPPOCK	250	7/8	215 62
3750 16	BI PLANNING	1000	1/2	500 -	3350	R. SCAVO	100	7/8	86 25
[illegible] 17	COLIN HOCHSTIN	500	1/2	250 -	[illegible] 30		100	7/8	86 25
[illegible] 18	MOSLEY ESTABROOK	400	3/8	150	1150 30		200	15/16	185 -
[illegible] 27		500	3/4	375	[illegible] 7		1000	7/8	862 50
	Short	400	1	[illegible]	[illegible]		400	7/8	345 -
									4550 [illegible]
	Realized Profit			677 81 (677 81)					
				1550 67					

PLAINTIFF'S EXHIBIT "23"

pl #23

D Dorfman
to
Aaron

MILTON KEAN
COUNSELLOR AT LAW
60 EAST 42 STREET
NEW YORK, NEW YORK 10017

TELEPHONE 867-4616
AREA CODE 212

November 21, 1974

E. L. Aaron & Co.
50 Broad Street
New York, N. Y. 10004

Gentlemen:

I enclose herewith Certificate No. NU 13 representing 10,000 shares (pre split) of Lawn-A-Mat Chemical and Equipment Corp., formerly Consolidated Home and Garden Services Corp. This Certificate presently represents a total of 40,000 shares of the $.01 par value common stock of Lawn-A-Mat Chemical and Equipment Corp. Also attached is a stock power transferring 1,000 shares of said post split stock. I am to receive back 39,000 shares of Lawn-A-Mat stock duly registered in the name of Daniel Dorfman.

I also enclose appropriate copies of Form 144. Please note that although this stock does not bear a legend, it is restricted stock and may not be sold except in compliance with Rule 144 of the Securities and Exchange Commission's Rules and Regulations.

I will issue the appropriate opinion letter to the Transfer Agent with respect to the transferability of said 1,000 shares as soon as the Certificate is received by them.

The 39,000 shares of stock to be returned to Mr. Dorfman is to be appropriately legended to reflect the continuing investment intent. I will so instruct the Transfer Agent.

Sincerely yours,

MILTON KEAN

MK:bw

Stock and documents received:

E. L. Aaron & Co.

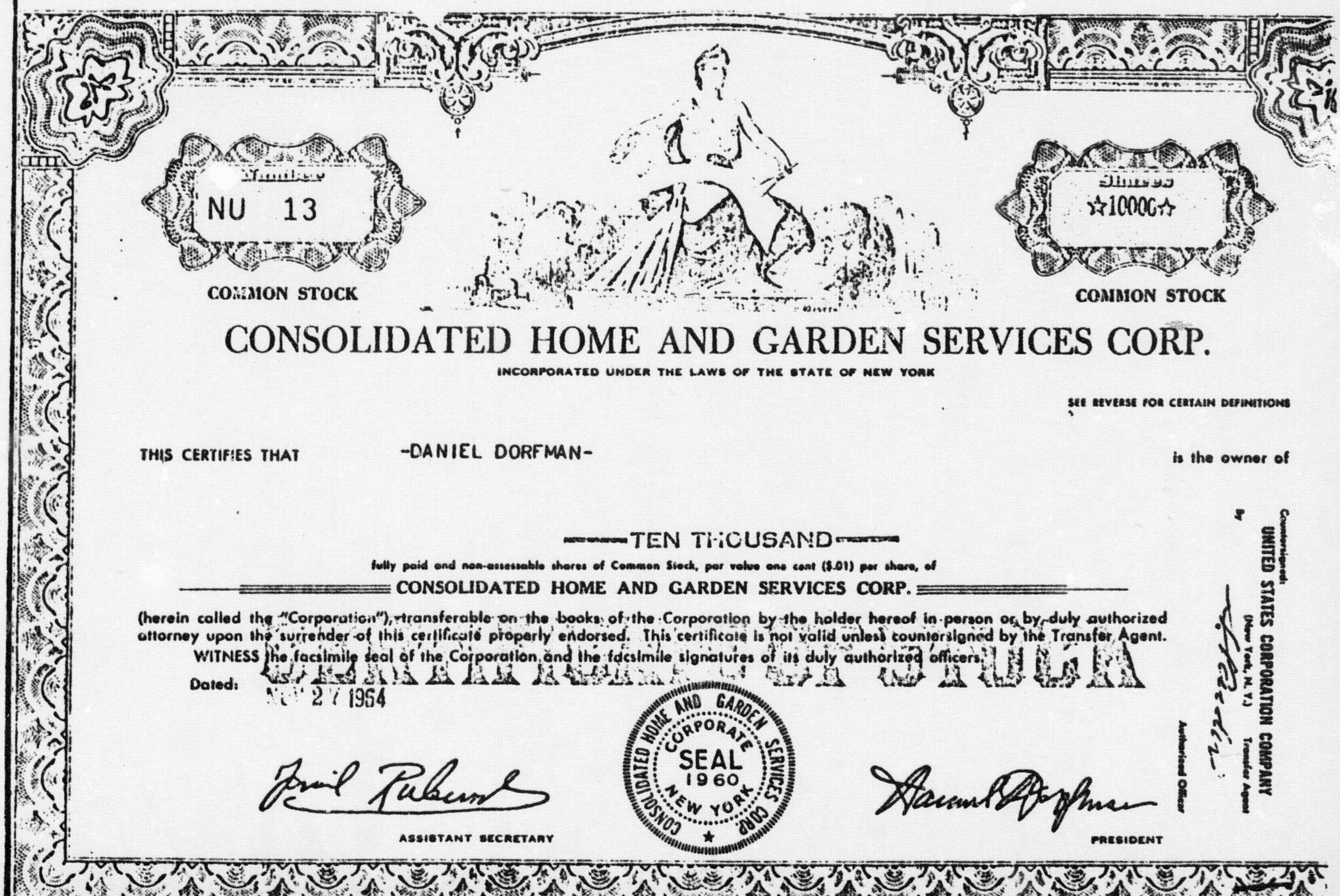
By Norman Schreiber

1/4/75 [illegible]
stock [illegible]

COPY

PLAINTIFF'S EXHIBIT "24"

Pl #24



Number NU 13

COMMON STOCK

Shares ☆10000☆

COMMON STOCK

CONSOLIDATED HOME AND GARDEN SERVICES CORP.

INCORPORATED UNDER THE LAWS OF THE STATE OF NEW YORK

SEE REVERSE FOR CERTAIN DEFINITIONS

THIS CERTIFIES THAT -DANIEL DORFMAN- is the owner of

TEN THOUSAND

fully paid and non-assessable shares of Common Stock, par value one cent ($.01) per share, of

CONSOLIDATED HOME AND GARDEN SERVICES CORP.

(herein called the "Corporation"), transferable on the books of the Corporation by the holder hereof in person or by duly authorized attorney upon the surrender of this certificate properly endorsed. This certificate is not valid unless countersigned by the Transfer Agent.

WITNESS the facsimile seal of the Corporation and the facsimile signatures of its duly authorized officers.

Dated: NOV 27 1964

CONSOLIDATED HOME AND GARDEN SERVICES CORP.
CORPORATE SEAL 1960 NEW YORK

ASSISTANT SECRETARY

PRESIDENT

Countersigned:
UNITED STATES CORPORATION COMPANY
(New York, N.Y.) Transfer Agent
By
Authorized Officer

The following abbreviations, when used in the inscription on the face of this certificate, shall be construed as though they were written out in full according to applicable laws or regulations:

TEN COM —as tenants in common
TEN ENT —as tenants by the entireties
JT TEN —as joint tenants with right of survivorship and not as tenants in common

UNIF GIFT MIN ACT—............Custodian............
(Cust) (Minor)
under Uniform Gifts to Minors
Act................
(State)

Additional abbreviations may also be used though not in the above list.

For Value Received,_______hereby sell, assign and transfer unto

PLEASE INSERT SOCIAL SECURITY OR OTHER IDENTIFYING NUMBER OF ASSIGNEE

☐

____

(PLEASE PRINT OR TYPEWRITE NAME AND ADDRESS OF ASSIGNEE)

____

____

____Shares

of the capital stock represented by the within Certificate, and do hereby irrevocably constitute and appoint

____Attorney

to transfer the said stock on the books of the within named Corporation with full power of substitution in the premises.

Dated____________________________

____

NOTICE: The signature to this assignment must correspond with the name as written upon the face of the certificate in every particular, without alteration or enlargement or any change whatever.

C 229—Assignment Separate from Certificate

[illegible]
80 EXCHANGE PLACE AT BROADWAY, NEW YORK

STOCK POWER

FOR VALUE RECEIVED, ____________________

PLEASE INSERT SOCIAL SECURITY OR OTHER IDENTIFYING NUMBER OF ASSIGNEE

hereby sell, assign and transfer unto ☐ ____________________

____

One Thousand

(1000) Shares of the ____________ Capital Stock of ____________

____________________ standing in my(our) name(s)

on the books of said Corporation represented by Certificate(s) No(s). ____________

herewith, and do hereby irrevocably constitute and appoint ____________

____________________ attorney to transfer the

said stock on the books of said Corporation with full power of substitution in the premises.

Dated ____________ Paul

Signature Guaranteed

In presence of

____

PLAINTIFF'S EXHIBIT "26"
ATTESTATION PAGE & TITLE PAGE
1-3 and 21-24

Pl #27

UNITED STATES OF AMERICA
SECURITIES AND EXCHANGE COMMISSION

ATTESTATION

I HEREBY ATTEST that attached is a full, true and complete copy of:

Washington, D.C.

Annual report on Form 10-K for the fiscal year ended December 31, 1974 filed with this Commission April 30, 1975 by Lawn-A-Mat Chemical & Equipment Corp., pursuant to the provisions of the Securities Exchange Act of 1934, as amended, (File No. 0-8079).

THE SECURITIES EXCHANGE ACT OF 1934

For the fiscal year ended December 31, 1974. Commission file no. 1-[illegible]

LAWN-A-MAT CHEMICAL & EQUIPMENT CO[illegible]
(Exact name of registrant as specified in its charter)

New York
(State or other jurisdiction of incorporation or organization)

1-[illegible]2785
(I.R.S. Employer identification No.)

on file in this Commission

153 [illegible]ferson Avenue [illegible], New York 11[illegible]
(Address of principal executive offices)

November 2, 1976
(Date)

Charles A. Moore
CHARLES A. MOORE
RECORDS OFFICER

It is hereby certified that James C. Foster, Director, Office of Reports and Information Services, Securities and Exchange Commission, Washington, D.C., which Commission was created by the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), is official custodian of the books and records of said Commission, and all books and records created or established by the Federal Trade Commission pursuant to the provisions of the Securities Act of 1933 and transferred to this Commission in accordance with Section 210 of the Securities Exchange Act of 1934, and was such official custodian at the time of executing the above attestation, and that he, and Charles A. Moore, Records Officer, and John H. Medlock, Chief, Administrative Proceedings Section, or any one of them, are authorized to execute the above attestation.

[illegible] be filed by Section 13 or 15(d) of the [illegible] Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports) and (2) has been subject to such filing requirements for the past 90 days.
Yes X. No ___

By the Commission

Secretary
George A. Fitzsimmons

43

SEC 334 (6-7

A-750

1-5360-2

Orig.

REC'D S.E.C.

APR 30 1975

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C.

Form 10-K

ANNUAL REPORT PURSUANT TO SECTION 13 or 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the fiscal year ended December 31, 1974. Commission file no. 1-5360

LAWN-A-MAT CHEMICAL & EQUIPMENT CORP.
(Exact name of registrant as specified in its charter)

New York (State or other jurisdiction of Incorporation or organization)	11-1992285 (I.R.S. Employer identification No.)
153 Jefferson Avenue Mineola, New York 11501 (Address of principal executive offices)	11501 (Zip Code)

Registrant's telephone number, including area cose 516 - 248-0122

Securities registered pursuant to Section 12(g) of the Act:

5,000,000 shares of common stock $.01 par value

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.
Yes X No ___

43

ITEM 1. BUSINESS

(a) Registrant is in the business of selling franchises and products in the lawn care field to its franchisees. The products are then resold to the general public. These franchises are located in restricted areas in the U.S. and cover a territory generally consisting of 5,000 homes or a population of 25,000 people. The Registrant supplies to its franchisees a Mobile Garden Center, consisting of a tractor, a combine and a trailer. This equipment permits the franchisee to apply lawn products sold by the Registrant's franchisees to consumers at prices competitive with similar nationally advertised products. The combine and trailer are manufactured to Registrant's specifications. The tractor is purchased from one or more manufacturers and modified for use with the combine. The franchisee ordinarily purchases the various products from the Registrant or Registrant's Distributor, which include seed, fertilizer, insecticides, herbicides, fungicides and other related products. The franchisee will then utilize the equipment to deliver and apply these products directly to the consumer's lawns.

The franchisee receives training, management assistance, advertising aids and general field supervision from the Registrant. A franchise currently sells for $18,500.

The Mobile Garden Center contains a combine with a double differential drive roller and adjustable aerator-spiker, four automatic metered dispensers, low pressure sprayers and spreaders. Clamped on to the top of the combine are 6 large stainless steel hopper bins from which grass seed, prill type pelletized fertilizer,

44

weed and crabgrass controls and insecticide flow into a metering hopper and then to the whirling spreader. The controls of each drum are spread evenly and uniformly regardless of the speed at which the machine travels. The tractor and combine are carried by a steel utility trailer. The actual servicing of the lawn is done by the franchisee.

Registrant has sold fifteen franchisees in 1974 at a price of $16,500 for each franchise sold. The dealer received a Mobile Garden Center and miscellaneous supplies and materials as well as advertising brochures, so that he can engage in business as soon as he has completed his training program (approximately one week.) Thereafter, Dealer pays franchise fees equal to 10% of his gross sales. If his gross sales exceed $150,000.00 in five years, he will receive a replacement Mobile Garden Center without charge.

Up until the Spring of 1973 the Registrant, in larger areas, would enter into agreements for a distributorship arrangement. The Distributor was required to operate as a dealer franchisee in at least one area within the distributorship. The Distributor would then be required to seek and obtain other dealer franchisees within his area who are then franchised by the Registrant.

The Distributor is the link between the Dealer and Registrant. A Distributor is franchised for an area which includes more than one Dealership territory and can be as large as a state. The Distributor advertises for dealers in his territory, encourages and assists the growth and development of dealerships in his Distributorship territory, helps train the dealers, encourages regional advertising and maintains a continuing link between Registrant and the Dealer. In consideration of these efforts, the Distributor receives 25% to 50% of the 10% franchise fee paid by the Dealer to Registrant. In addition, the Distributor re-sells the chemicals, fertilizer and seed purchased from Registrant to the Dealer at a profit. Registrant has discontinued franchising new distributors in the belief that it can give greater aid and assistance to its dealers directly.

Registrant advertises for franchisees in local newspapers and news media, such as the Wall Street Journal and the New York Times. It has two people working in the franchise sales ares. Distributors provide local advertising for prospective franchisees and handle local problems that affect the franchisees as they develop.

Both dealers and Distributors are independent agents. Registrant exercises a minimum control over its franchisees. Unless special problems arise, Registrant concerns itself solely with the collection of the franchise fees, the sale of appropriate materials for use by the franchisees and the dissemination of information with respect to new products, legislation, environmental control regulations, and general information with respect to the agronomy studies conducted by the Company. Franchisees are permitted, under controlled conditions to purchase chemicals and supplies from other sources without penalty.

The following table reflects sales of franchises during the last five years.

Year	Dealer Franchises Sold	Gross Income From Sale Of Dealer Franchises	Distributorship Franchises Sold	Dealer Franchises Terminated	Distributorships Franchises Terminated
1970	[illegible]	$45,941.50	1	12	3
1971	[illegible]	$28,500.00	6	13	2
1972	[illegible]	$639,928.81	3	5	3
1973	28	$435,317.00	1	4	1
1974	15	$187,625.00	0	5	0

At the present time Registrant has 42 distributor and 295 dealer franchises in operation.

Registrant owns a 3 1/2% interest in Greenskeeper, Inc., a Canadian corporation which operates as Lawn-A-Mat of Canada. Greenskeeper, Inc. is obligated to pay to Registrant 10% of the gross fees received by Greenskeeper, Inc. from its dealers respecting the sale of lawn and garden care services and does not include the sale of any chemicals. Registrant, as a result of this relationship with Greenskeeper, Inc., is not permitted to operate in Canada, Bermuda, the Bahama Islands, Trinidad, Tobago, Australia and Israel. The amounts received from this operation do not represent a substantial portion of Registrant's business.

(b) (1) Competitive conditions in the lawn care business in which Registrant is engaged are keen. Registrant is one of the smaller companys in this field and its sales account for only a small portion of such products sold nationally.

(2) Registrant is not dependent for a material part of its business upon any single customer or a small number of customers.

(3) Registrant does not operate on a backlog basis. The business of Registrant is primarily seasonal with its greatest volume being done in the spring, and fall of the year.

(4) All materials are available to Registrant through many different sources and there are no shortages with respect to materials used or sold by the Registrant. However, fertilizer and certain chemicals are dependent upon the availability of oil and oil shortages may and did cause sharp escalations in the cost of fertilizer and certain chemicals. Fluctuations in the cost of chemicals, fertilizer and seed used by Registrant's dealers may affect gross sales and gross profits of Registrant, since profit margins are a percentage of the gross sales.

(5) The Registrant has no patents applicable to its latest combine or any other patents that would be materially important to its business.

(6) (a) Periodically the usefulness of various chemicals available for the treatment of lawns, turf, weeds and lawn diseases change. Various new chemicals appear on the market and because of environmental problems, some of the older products have been discontinued. In many states certain products are allowed while these same products are not allowed in other states. Registrant makes available to its franchisees chemicals and other products that may be used in particular states and which will be effective in meeting the turf and lawn problems of that state. Registrant registers the chemicals it uses in particular states with the appropriate state authorities as required. Various grasses which are indigenous in the northern areas cannot be grown in warmer climates, such as Florida or Southern California.

Registrant has two full time employees involved in the study of lawn care products and their applications. Additionally Registrant maintains a staff of part time consultants, who regularly report with respect to new chemicals, herbicides, fertilizers, fungicides and new seed or grass products as they become available, including information as to their effectiveness in particular areas. The Registrant formulates such products specifically for use in its lawn care programs.

(b) On March 12, 1973, Registrant entered into a series of agreements with Millcount Realty, Corp. (Millcount) for the purchase of 131 Sunnyside Boulevard, Plainview, New York being the premises occupied by United Stellar Industries, Inc., with Sheridan Realty Corp. (Sheridan) for the purchase of 3300 West 7th Street, Joplin, Missouri and on Tyler Street, Joplin, Missouri being the premises occupied by Starlight Tool and Manufacturing Corp. and with Bernard Discount for the acquisition of all of the issued and outstanding shares of stock of United Stellar Industries, Inc. (Stellar), Coinmeco Inc. (Coinmeco) and Starlight Tool and Manufacturing Corporation (Starlight). Gertrude Discount as sole stockholder of Millcount and Sheridan approved said contracts. On June 26, 1973, Registrant entered into certain agreements with Republic Corporation (Republic) whereby Registrant acquired an option expiring October 31, 1974 to purchase certain tools and equipment leased by Republic for $300,000 and in addition acquired certain claims and rights of Republic against Discount. All of the foregoing were reported in the 10-K filed for 1973. In March 1974, Gertrude Discount notified Registrant that Millcount and Sheridan deemed the contracts breached and terminated by reason of non-performance by Registrant.

On August 27, 1974, Registrant entered into a joint venture agreement with Tri-Den Tool Company (Tri-Den), an Illinois corporation whereby Tri-Den would advance $300,000 for the purpose of executing Registrant's option with Republic and simultaneously Registrant assigned to the joint venture corporation (Tri-Lam, Inc.) all of its claims against Stellar, Starlight, Coinmeco, Millcount, Sheridan, Bernard Discount and Gertrude Discount. Tri-Lam is owned jointly with Tri-Den in equal shares. Registrant had previously instituted suit against Bernard Discount, Gertrude Discount, Stellar, Coinmeco, Sheridan, Millcount and Starlight. (See litigation)

Tri-Den, thereafter executed the option and acquired all of the tools and equipment leased by Republic from Carolina Fleets, Inc. and National Equipment Rental, Ltd in its individual name. The August 27, 1974 agreement provides that Tri-Den will act as trustee for Tri-Lam. In addition Republic assigned to Tri-Lam the promissory note in the sum of $248,610.45 plus accrued interest of $24,391 as computed to December 11, 1973 made by Bernard Discount to Republic and guaranteed by Stellar, Starlight and Coinmeco. All the issued and outstanding shares of stock of Stellar, Starlight and Coinmeco are pledged as security for the payment of said note.

In December 1974, Tri-Den endeavoring to obtain access to the Starlight premises for the purposes of conducting the auction, attempted to settle directly with Discount without the consent of Registrant or Tri-Lam. This attempt was unsuccessful. However, on March 1, 1975, Tri-Den entered into an agreement substantially

50

similar to the proposed December 1974 settlement agreement with Bernard Discount, Gertrude Discount, Stellar, Starlight and Sheridan whereby Tri-Den agreed to transfer to Discount all of its stock in Tri-Lam and all of the benefits to which it was entitled under the August 27, 1974 agreement with Registrant on condition that it be permitted the use of the Starlight premises to sell at auction all of the equipment acquired from Republic. As a further condition of said agreement, Tri-Den agreed to pay to Discount and/or Sheridan (as landlord) rent of $7,500 each for April and May, 1975 while sharing the premises with Starlight and a $500 per diem charge thereafter for exclusive use of the premises until all the equipment is sold or removed from the Starlight premises, whichever shall last occur. Registrant has not consented to nor approved those agreements.

On February 26, 1975, Daniel Dorfman, (Dorfman) president of Registrant, entered into an agreement with Bernard Discount whereby Dorfman acquired one half of the issued and outstanding shares of stock of Stellar, Coinmeco and Starlight (which are held as a pledge for payment of the $248,610.45 note assigned by Republic to Tri-Lam) from Discount for 225,000 shares of his personally held stock in Registrant. Simultaneously therewith, Discount and Dorfman gave to Registrant a one year option to acquire all of the issued and outstanding shares of stock of Stellar, Coinmeco and Starlight for 450,000 shares of its authorized but unissued one cent par value common stock. Registrant has neither accepted nor rejected this option. In the event this option is exercised by Registrant, Discount and Dorfman will use their best efforts to discontinue the litigation pending

LAWN-A-MAT CHEMICAL AND EQUIPMENT CORP. AND SUBSIDIARIES

CONSOLIDATED BALANCE SHEET AS AT DECEMBER 31,

ASSETS

	1974	1973
CURRENT ASSETS:		
Cash	$ 36,547	$ 4,777
Accounts and Notes Receivable (Less Allowance for Doubtful Accounts, 1974 - -0-; 1973 - $675)	395,316	444,907
Cash and Marketable Securities (Note 3)	49,868	-
Merchandise Inventories	22,456	44,503
Federal and State Income Taxes Receivable	67,881	59,468
Miscellaneous Advances and Receivables	40,149	46,197
Prepaid Expenses	19,733	13,310
Due from Officers	-	5,300
TOTAL CURRENT ASSETS	$ 631,950	$ 618,062
PROPERTY, PLANT AND EQUIPMENT: (AT COST)		
Revenue Producing Equipment on hand	$ 58,460	$ 143,996
Revenue Producing Equipment at Dealers (Note 1j)	117,615	-
Furniture, Fixture and Improvements	30,020	52,041
Automotive Equipment	15,755	35,896
Automotive Equipment - Leased to Dealers (Note 5)	126,164	114,275
	$ 348,014	$ 346,208
Less: Accumulated Depreciation	81,791	69,132
	$ 266,223	$ 277,076
OTHER ASSETS:		
Accounts and Notes Receivable due after one year (Less Provision for Doubtful Accounts, 1974 - $35,533; 1973 - $11,997)	$ 179,824	$ 131,694
Deferred Charges	4,599	60
Deposits and Advances	720	3,250
Patents, Trademarks (Net of Amortization)	1,883	2,201
Due from Officer	21,553	20,700
	$ 208,579	$ 157,905
TOTAL ASSETS	$1,106,752	$1,053,043

65

LAWN-A-MAT CHEMICAL AND EQUIPMENT CORP. AND SUBSIDIARIES

CONSOLIDATED BALANCE SHEET AS AT DECEMBER 31,

LIABILITIES AND STOCKHOLDERS EQUITY

	1974	1973
CURRENT LIABILITIES:		
Notes Payable - Bank (Note 4)	$ 85,000	$ -
Accounts Payable - Trade	232,022	329,300
Accounts Payable - Distributors and Dealers	101,631	45,833
Deposits on Future Dealerships	16,550	34,751
Current Portion of Notes Payable - Automotive Equipment (Note 5)	39,190	38,432
Accrued Expenses Payable	66,364	54,062
Miscellaneous Liabilities	7,106	5,505
Provision for Litigation Claims (Note 9d)	103,271	49,522
TOTAL CURRENT LIABILITIES	$ 651,134	$ 557,405
LONG-TERM LIABILITIES:		
Notes Payable - Automotive Equipment due after one year (Note 5)	$ 38,336	$ 57,487
DEFERRED INCOME: (Note 8)	$ 67,500	$ -
COMMITMENTS & CONTINGENCIES: (Note 9)		
STOCKHOLDERS EQUITY:		
Common Stock $.01 par value, authorized 5,000,000 Shares Issued and Outstanding 1974 and 1973 2,229,232 Shares	$ 22,292	$ 22,292
Capital in Excess of Par Value (Note 6)	200,940	199,940
Retained Earnings (Note 6)	126,550	215,919
TOTAL STOCKHOLDERS EQUITY	$ 349,782	$ 438,151
TOTAL LIABILITIES AND STOCKHOLDERS EQUITY	$1,106,752	$1,053,043

LAWN-A-MAT CHEMICAL AND EQUIPMENT CORP. AND SUBSIDIARIES

CONSOLIDATED STATEMENT OF INCOME AND LOSS
FOR THE YEAR ENDED DECEMBER 31,

	1974	1973
Net Sales of Products	$2,231,888	$1,786,244
Operating Revenue - Continuing Franchise Fees	532,081	544,784
- Initial Franchise Fees	187,625	435,317
- Rental Income - Mobile Equipment	48,973	21,120
- Other Income	8,985	10,350
Total Net Sales and Operating Revenues	$3,009,552	$2,797,815
COSTS AND EXPENSES:		
Cost of Products Sold & Operating Revenue	$2,102,493	$1,818,858
Selling, General and Administrative Expenses	966,557	1,029,813
Provision for Doubtful Accounts and Notes	64,081	13,491
Total Costs and Expenses	$3,133,131	$2,862,162
Loss before Provision for Income Tax Refund Claims	$ (123,579)	$ (64,347)
Income Tax Refund Claims arising from Carry-back of Net Operating Loss to prior years	$ (50,288)	$ (28,806)
Provision for Income Taxes for prior years resulting from Internal Revenue Service Audit	16,078	-
	$ (34,210)	$ (28,806)
Loss for the Year	$ (89,369)	$ (35,541)
Loss per Share	(.04)	(.02)
WEIGHTED AVERAGE NUMBER OF SHARES OUTSTANDING	2,229,232	2,125,505

LAWN-A-MAT CHEMICAL & EQUIPMENT CORP. AND SUBSIDIARIES

CONSOLIDATED STATEMENT OF CHANGES IN FINANCIAL POSITION

	1974	1973
SOURCES OF FUNDS:		
Decrease in Deposits and Advances	$ 2,530	$ 1,871
Sales of Common Stock	-	57,500
Increase in Non-current Liability	-	57,487
TOTAL SOURCES	$ 2,530	$ 116,858
USE OF FUNDS:		
For Operations:		
Net Loss	$ 89,369	$ 35,541
Less: Expenses not requiring Funds		
: Depreciation and Amortization	58,047	25,574
: Loss on Sale of Fixed Assets	1,751	-
: Value Attributed to Stock Options	1,000	-
: Provision for Doubtful Accounts - Long-Term Receivables	23,536	-
For Operations	5,035	9,967
Acquisition of Fixed Assets	48,627	205,448
Decrease in Long-Term Liabilities	19,151	
Increase in Deferred Charges	4,539	60
Increase in Loan to Officer	853	
Increase in Long-Term Receivables	4,166	1,645
TOTAL USE	$ 82,371	$ 217,120
DECREASE IN WORKING CAPITAL	$(79,841)	$(100,262)
CHANGES IN COMPONENTS OF WORKING CAPITAL: INCREASE (DECREASE) IN WORKING CAPITAL:		
Cash	$ 31,770	$ (88,449)
Accounts and Notes Receivable	(49,191)	179,565
Cash and Marketable Securities	49,868	-
Merchandise Inventories	(22,047)	(27,486)
Income Taxes Receivable	8,413	59,468
Prepaid Expenses	6,423	12,148
Miscellaneous Advances and Receivables	(6,048)	13,443
Due from Officers	(5,300)	-
Notes Payable - Bank	(85,000)	-
Accounts Payable - Trade	97,278	(174,565)
Accounts Payable - Distributors and Dealers	(55,798)	(14,995)
Deposits on Future Dealerships	18,201	44,500
Notes Payable - Equipment	(758)	(37,050)
Accrued Items Payable	(12,302)	(11,783)
Miscellaneous Liabilities	(1,601)	(5,505)
Provision for Litigation Claims	(53,749)	(49,522)
DECREASE IN WORKING CAPITAL	$(79,841)	$(100,262)

PLAINTIFF'S EXHIBIT "27"
ATTESTATION PAGE & TITLE PAGE
1-8 and 2-5 OF FINANCIALS

UNITED STATES OF AMERICA
SECURITIES AND EXCHANGE COMMISSION

A- 53

ATTESTATION

I HEREBY ATTEST that attached is a full, true and complete

Washington, D.C.

copy of:

Annual report on Form 10-K for the fiscal year ended December 31, 1973 filed with this Commission May 2, 1974 by Lawn-A-Mat Chemical & Equipment Corp., pursuant to the provisions of the Securities Exchange Act of 1934, as amended, (File No. 0-8079).

For the fiscal year ended December [illegible] Commission file no.1-5200

LAWN-A-MAT CHEMICAL & EQUIPMENT CORP.
(Exact name of registrant as specified in its charter)

New York
(State or other jurisdiction of incorporation or organization)

11-[illegible]
(I.R.S. Employer Identification No.)

153 Jefferson Avenue
Mineola, N.Y. 11501
(Address of principal executive offices)

11501
(Zip Code)

Registrant's telephone number, including area code 516 - 246-0122

on file in this Commission

Securities registered pursuant to Section 12(b) of the Act:

November 2, 1976
(Date)

Title of each class [illegible] Name of each exchange on which registered

Common Stock
$.01 par value [illegible] Stock Exchange

Charles A. Moore
CHARLES A. MOORE
RECORDS OFFICER

It is hereby certified that James C. Foster, Director, Office of Reports and Information Services, Securities and Exchange Commission, Washington, D.C., which Commission was created by the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), is official custodian of the books and records of said Commission, and all books and records created or established by the Federal Trade Commission pursuant to the provisions of the Securities Act of 1933 and transferred to this Commission in accordance with Section 210 of the Securities Exchange Act of 1934, and was such official custodian at the time of executing the above attestation, and that he, and Charles A. Moore, Records Officer, and John H. Medlock, Chief, Administrative Proceedings Section, or any one of them, are authorized to execute the above attestation.

[illegible] Exchange [illegible] and (2) has been subject to such filing requirements for the past 90 days.
Yes X No ______

By the Commission

George A. Fitzsimmons
Secretary
George A. Fitzsimmons

SEC 334 [illegible]

A-764

1-5360-2

Orig

SECURITIES AND EXCHANGE COMMISSION

Washington, D.C.

REC'D - S.E.C.
MAY 2 - 1974

Form 10-K

ANNUAL REPORT PURSUANT TO SECTION 13 or 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the fiscal year ended December 31, 1973. Commission file no. 1-5360

LAWN-A-MAT CHEMICAL & EQUIPMENT CORP.
(Exact name of registrant as specified in its charter)

New York (State or other jurisdiction of Incorporation or organization)	11-1992285 (I.R.S. Employer identification No.)
153 Jefferson Avenue Mineola, N.Y. 11501 (Address of principal executive offices)	11501 (Zip Code)

Registrant's telephone number, including area code 516 - 248-0122

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Name of each exchange on which registered
Common Stock $.01 par value	National Stock Exchange

Securities registered to Section 12(g) of the Act:

5,000,000 shares of common stock $.01 par value

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.
Yes X No ____

1

ITEM 1. BUSINESS

(a) Registrant is in the business of selling franchises and products in the lawn care field to its franchisees. The products are then resold to the general public. These franchises are located in restricted areas in the U. S. and cover a territory generally consisting of 5,000 homes or a population of 25,000 people. The Registrant supplies to its franchisees a tractor, a combine and a trailer, which is called a Mobile Garden Center. This equipment permits the franchisee to apply lawn products sold by the Registrant to consumers at prices competitive with similar nationally advertised products. The Registrant builds its own combine and trailer. The franchisee ordinarily purchases the various products from the Registrant, which include seed, fertilizer, insecticides, herbicides, fungicides and other related products. The franchisee will then utilize the equipment to deliver and apply these products to the consumers' lawns.

The franchisee receives training, management assistance, advertising aids and general field supervision from the Registrant. A franchise currently sells for $16,500.

The Mobile Garden Center contains a combine with a double differential drive roller and adjustable aerator-spiker, four automatic metered dispensers, low pressure sprayers and spreaders. Clamped on to the top of the combine are 6 large stainless steel hopper bins from which grass seed, prill type pelletized fertilizer, weed and crabgrass controls and insecticide flow into a metering hopper and then to the whirling spreader. The contents of each drum are spread evenly and uniformly regardless of the speed at which the machine travels. The tractor and combine are carried by a steel utility trailor. The actual servicing of the lawn is done by the franchisee.

Up until the Spring of 1973 the Registrant, in larger areas, would enter into agreements for a distributorship arrangement. The distributor was required to operate as a franchisee in at least one area within the distributorship. The distributor would then be required to seek and obtain other franchisees within his area who are then franchised by the Registrant. After indoctrination by Registrant the distributor would then provide training and assistance to dealers. The distributor would purchase products from the Registrant and then resell to dealers within its territory. The distributor would also provide for the servicing of equipment provided by the Registrant. After the Spring of 1973 the Registrant has discontinued the sale of distributorships. There are, however, a number of distributorships still in existence (see below).

Registrant advertises for franchisees in local newspapers and news media, such as the Wall Street Journal and the New York Times. It has two people working exclusively in this sales area. Distributors provide local advertising for prospective franchisees and handle local problems that affect the franchises as they develop.

The sales of franchises were de-emphasized by Registrant after the Spring of 1973 due to the Registrant's emphasis on shifting production of its combine and trailer to the Joplin, Missouri plant of Starlight Manufacturing Co. (see description below). The Registrant intends to resume sales of franchises in the Spring of 1974.

Set forth below is a table showing the number of franchises and distributorships sold and terminated each year for the past 5 years.

3

LAWN-A-MAT CHEMICAL AND EQUIPMENT CORPORATION AND SUBSIDIARIES
CONSOLIDATED BALANCE SHEET AS AT

ASSETS

	December 31, 1973			December 31, 1972		
CURRENT ASSETS						
Cash		$ 4,776.92			$ 93,225.82	
Accounts Receivable - Trade (Less Provision for Doubtful Accounts, 1973-674.58, 1972- -0-)	$391,405.79			$226,963.13		
Notes Receivable - Trade (Less Provision for Doubtful Accounts, 1973 and 1972 -0-)	53,101.68	444,507.47		37,979.49	264,942.62	
Merchandise Inventory (Note 1)		44,503.19			71,989.33	
Miscellaneous Receivable		13,503.86			23,790.93	
Loans Receivable - Employees		26,000.00			-0-	
Advances for Future Delivery of Revenue Producing Equipment		32,693.38			20,250.00	
Prepaid Expenses		13,309.99			16,874.83	
Federal and State Income Taxes Receivable		59,468.32			-0-	
TOTAL CURRENT ASSETS			$638,763.13			$491,073.53
FIXED ASSETS (AT COST)(NOTE 2)						
Revenue Producing Equipment		143,996.04			65,348.70	
Furniture and Equipment		27,561.45			26,281.02	
Motor Equipment - Leased to Others		114,275.00			-0-	
Motor Equipment		35,895.56			24,650.56	
Leasehold Improvements		24,480.16			24,983.38	
		346,208.21			141,263.66	
Less: Accumulated Depreciation		69,132.07			44,379.41	
TOTAL FIXED ASSETS			277,076.14			96,884.25
INTANGIBLE ASSETS						
Trademarks and Patents		4,090.00			4,090.00	
Less: Accumulated Amortization		1,888.92			1,571.28	
TOTAL INTANGIBLE ASSETS			2,201.08			2,518.72
OTHER ASSETS						
Accounts Receivable - Trade (Less Provision for Doubtful Accounts, 1973-5,268.40, 1972- -0-)	48,220.02			28,405.90		
Notes Receivable - Trade (Less Provision for Doubtful Accounts, 1973-6,729.20, 1972- -0-)	83,473.86	131,693.88		101,642.75	130,048.65	
Deposits and Security		3,250.00			3,120.83	
Deferred Costs (Net of Reserve of 25.50)		59.50			-0-	
TOTAL OTHER ASSETS			135,003.38			133,169.48
TOTAL ASSETS			$1,053,043.73			$723,645.98

A-767

A-768

LAWN-A-MAT CHEMICAL AND EQUIPMENT CORPORATION AND SUBSIDIARIES
CONSOLIDATED BALANCE SHEET AS AT

LIABILITIES AND STOCKHOLDERS' EQUITY	December 31, 1973		December 31, 1972	
LIABILITIES				
CURRENT LIABILITIES				
Accounts Payable - Trade	$329,299.86		$154,734.88	
Notes Payable - Motor Vehicles (Net of unearned interest included in Notes)(Note 3)	38,431.72		1,352.04	
Accrued Liabilities:				
Federal and State Income Tax	-0-		112,090.44	
Settlement of Legal Claims	49,522.36		-0-	
Replacement of Dealers Equipment	6,176.00		-0-	
Expenses	38,510.90		21,938.12	
Commissions	9,375.00		8,250.00	
Commissions Payable to Distributors	45,833.28		30,836.79	
Deposits Received on Future Dealerships	34,751.00		79,251.00	
Dealer Co-op Advertising Fund	5,505.00		-0-	
Rent Security Deposit	-0-		1,000.00	
TOTAL CURRENT LIABILITIES		$ 557,405.12		$309,453.27
NON-CURRENT LIABILITIES				
Notes Payable - Motor Vehicles (Net of unearned interest included in Notes)(Note 3)		57,487.13		-0-
TOTAL LIABILITIES		614,892.25		309,453.27
Commitments and Contingencies (Note 6)				
STOCKHOLDERS' EQUITY (NOTE 4 AND 6)				
Common Stock Issued and Outstanding 2,229,232 shares at December 31, 1973 and 2,009,232 shares at December 31, 1972 at .01 par value	22,292.32		20,092.32	
Additional Paid-In Capital	199,940.43		144,640.43	
Retained Earnings	215,918.73		251,459.96	
STOCKHOLDERS' EQUITY		438,151.48		416,192.71
TOTAL LIABILITIES AND STOCKHOLDERS' EQUITY		$1,053,043.73		$725,645.98

2

LAWN-A MAT CHEMICAL AND EQUIPMENT CORPORATION AND SUBSIDIARIES
CONSOLIDATED STATEMENT OF INCOME AND LOSS
FOR THE YEAR ENDE DECEMBER 31,

	1973		1972	
Gross Sales of Products		$1,786,243.86		$1,536,426.37
Operating Revenue - Continuing Franchise Fees	$ 544,783.51		$ 446,654.81	
- Initial Franchise Fees	434,316.94		535,250.00	
- Dealer Deposits Forfeited	1,000.00		13,150.00	
- Distributorships Sold	-0		53,526.91	
- Advertising Income	10,350.75		-0-	
- Rental Income - Mobile Equipment	21,120.00	1,011,571.20	370.60	1,048,952.32
Gross Revenue		2,797,815.06		2,585,378.89
COST AND EXPENSES				
Cost of Products and Franchises	1,812,799.52		1,516,616.04	
Cost of Advertising Revenue	6,058.45		-0-	
Selling, General and Administrative	1,029,812.66		962,060.90	
Provision for Doubtful Accounts and Notes	13,491.83	2,862,162.46	10,130.46	2,488,807.40
Income or (Loss) Before Taxes		(64,347.40)		96,571.49
Federal and State Income Tax		(28,806.17)		40,890.64
Income (As Originally Reported)		(35,541.23)		55,680.85
Retractive Effect on December 31, 1972 of Error Due to Inventory Valuation (Net of Taxes of $6,559.80)		-0-		4,340.20
NET INCOME OR (LOSS) - (AS ADJUSTED)		$ (35,541.23)		$ 51,340.65
Earnings or (Loss) Per Share				
Net Income as Previously Reported		(.02)		.03
Adjustment for Effect of a Change due to Inventory Error Applied Retractively		---		---
NET INCOME - AS ADJUSTED		(.02)		.03
WEIGHTED AVERAGE NUMBER OF SHARES OUTSTANDING		2,125,305		2,009,232

2

LAWN-A-MAT CHEMICAL AND EQUIPMENT CORPORATION AND SUBSIDIARIES
CONSOLIDATED STATEMENT OF CHANGES IN FINANCIAL POSITION

YEAR ENDED	December 31, 1973	1972
SOURCES OF FUNDS		
FROM OPERATIONS		
Net Income or (Loss)	$(35,541.23)	51,340.65
Depreciation and Other Charges to Income not Requiring Cash	25,573.52	14,057.73
TOTAL FROM OPERATIONS	(9,967.71)	65,398.38
Sale of Common Shares	57,500.00	3,462.00
Decrease in Security Deposits	1,870.83	(4,695.83)
Proceeds from Sale of Fixed Assets	-0-	2,747.82
Increase in Non-Current Liability	57,487.13	(1,566.00)
TOTAL	106,890.25	65,346.37
USE OF FUNDS		
Increase in Non-Current Receivables	1,645.23	94,908.65
Increase in Deferred Costs	59.50	-0-
Addition to Fixed Assets	205,447.77	44,085.59
TOTAL	207,152.50	138,994.24
(Decrease) in Working Capital	$(100,262.25)	$(73,647.87)
CHANGES IN COMPONENTS OF WORKING CAPITAL		
Increase (Decrease) in Working Capital		
Cash	(88,448.90)	(88,220.79)
Notes and Accounts Receivable	179,564.85	130,448.15
Inventories	(27,486.14)	29,239.38
Other Assets and Prepaid Items	12,148.09	10,525.89
Advances for Future Deliveries	12,443.38	5,250.00
Prepaid and Refundable Income Taxes	59,468.32	-0-
Accounts Payable	(174,564.98)	(106,293.57)
Notes Payable - Motor Vehicles	(37,079.68)	735.96
Federal and State Income Taxes	12,090.44	(6,684.02)
Other Accrued Liabilities	(93,897.63)	(44,022.87)
Deposits Received from Dealers	44,500.00	(3,626.00)
Rent Deposit Received	1,000.00	(1,000.00)
(Decrease) in Working Capital	$(100,262.25)	$(73,647.87)

PLAINTIFF'S EXHIBIT "28"

Pl # 28

UNITED STATES OF AMERICA
SECURITIES AND EXCHANGE COMMISSION

ATTESTATION

I HEREBY ATTEST that attached is a full, true and complete copy of:

Quarterly report on Form 10-Q for the six months ended June 30, 1974 filed with this Commission August 15, 1974 by Lawn-A-Mat Chemical & Equipment Corp., pursuant to the provisions of the Securities Exchange Act of 1934, as amended, (File No. 0-8079).

on file in this Commission

November 11, 1976
(Date)

Charles A. Moore
CHARLES A. MOORE
RECORDS OFFICER

It is hereby certified that James C. Foster, Director, Office of Reports and Information Service, Securities and Exchange Commission, Washington, D.C., which Commission was created by the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), is official custodian of the books and records of said Commission, and all books and records created or established by the Federal Trade Commission pursuant to the provisions of the Securities Act of 1933 and transferred to this Commission in accordance with Section 210 of the Securities Exchange Act of 1934, and was such official custodian at the time of executing the above attestation, and that he, and Charles A. Moore, Records Officer, and John H. Medlock, Chief, Administrative Proceedings Section, or any one of them, are authorized to execute the above attestation.

By the Commission

Secretary
George A. Fitzsimmons

SEC 33[illegible] ([illegible])

2

0-8077 Orig

SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D.C. 20549

FORM 10-Q

QUARTERLY REPORT UNDER SECTION 13 or 15 (d)
OF THE SECURITIES EXCHANGE ACT OF 1934
FOR THE SIX MONTHS ENDED JUNE 30, 1974

REC'D - S.E.C.
AUG 15 1974

COMMISSION FILE NO. 1-5360

LAWN-A-MAT CHEMICAL & EQUIPMENT CORP.
(Exact name of Registrant, as specified in its charter)

NEW YORK	11-1992285
(State or other jurisdiction of incorporation or organisation)	(I.R.S. Employer Identification Number)
153 Jefferson Avenue, Mineola, New York	11501
(Address of principal executive offices)	(Zip Code)

Registrant's telephone number, including area code: (516) 248-0122

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15 (d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.

Yes X No ____

6

LAWN-A-MAT CHEMICAL AND EQUIPMENT CORP. AND SUBSIDIARIES

CONSOLIDATED STATEMENT OF INCOME
For the Six Months Ended June 30,

	1974	1973
Net sales of products	$1,472,758	$1,162,425
Operating revenue	469,797	636,395
Total Sales and Operating Revenue	$1,942,555	$1,798,820
COSTS AND EXPENSES:		
Cost of products sold	$1,284,618	$ 957,134
Operating expenses	214,532	185,553
Selling, general and administrative expenses	430,377	464,374
Interest expense - net (income)	5,691	(795)
Total Costs and Expenses	$1,935,218	$1,606,266
Income before taxes	$ 7,337	$ 192,554
Provision for taxes on income	1,500	94,732
Net income	$ 5,837	$ 97,822
Earnings per share	1/4¢	.04¢

Earnings per share based on 2,229,232 shares outstending during entire period.

LAWN-A-MAT CHEMICAL AND EQUIPMENT CORP. AND SUBSIDIARIES

CAPITALIZATION AND STOCKHOLDERS' EQUITY
June 30, 1974

DEBT:	
Short-term loans, notes, etc.	$ 37,953
Long-term debt (Less: Portion due within one year - above)	61,609
TOTAL DEBT	$ 99,562
Deferred credits	$ -
Minority interest	-
STOCKHOLDERS' EQUITY	$443,988

SHARES ISSUED OR OUTSTANDING	Shares Issued and Outstanding	Amount
Common stock	2,229,232	$ 22,292
Capital in excess of par value		199,940
Retained Earnings:		
Balance at beginning of current fiscal year	215,919	
Net income	5,837	221,756
TOTAL STOCKHOLDERS' EQUITY		$443,988

NOTES:

1. The report as presented has been prepared in conformity with the same application of accounting principles and procedures, as reflected in the annual report for December 31, 1973 as filed. In the opinion of management all adjustments necessary to a fair statement of the operations for the quarter ended June 30, 1974, are included therein.

2. The Registrant is involved in a cyclical business based upon the grass growing season in the United States, and the bulk of the selling activities occur in the second and third quarter of the calendar year.

3. The unusual decrease in net income for the current period is due to the procedure of replacing equipment at the expiration of the fifth year of dealership at no cost to the respective dealer and at a current expense to the company, and the unusual large interim increase in the cost of chemicals, and freight, which the company was unable to pass on to their distributors and dealers.

8

PLAINTIFF'S EXHIBIT "29"

Pl #29

UNITED STATES OF AMERICA
SECURITIES AND EXCHANGE COMMISSION

ATTESTATION

I HEREBY ATTEST that attached is a full, true and complete

copy of:

Quarterly report on Form 10-Q for the nine months ended September 30, 1974 filed with this Commission November 4, 1974 by Lawn-A-Mat Chemical & Equipment Corp., pursuant to the provisions of the Securities Exchange Act of 1934, as amended, (File No. 0-8079).

on file in this Commission

November 11, 1976
(Date)

Charles A. Moore
CHARLES A. MOORE
RECORDS OFFICER

It is hereby certified that James C. Foster, Director, Office of Reports and Information Services, Securities and Exchange Commission, Washington, D.C., which Commission was created by the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), is official custodian of the books and records of said Commission, and all books and records created or established by the Federal Trade Commission pursuant to the provisions of the Securities Act of 1933 and transferred to this Commission in accordance with Section 210 of the Securities Exchange Act of 1934, and was such official custodian at the time of executing the above attestation, and that he, and Charles A. Moore, Records Officer, and John H. Medlock, Chief, Administrative Proceedings Section, or any one of them, are authorized to execute the above attestation.

By the Commission

George A. F
Secretary
George A. Fitzsimmons

SEC 33

A 776

1-5360-2-
Orig

REC'D S.E.C.
NOV 4 1974

SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

FORM 10-Q

QUARTERLY REPORT UNDER SECTION 13 or 15 (d)
OF THE SECURITIES EXCHANGE ACT OF 1934
FOR THE NINE MONTHS ENDED SEPTEMBER 30, 1974

COMMISSION FILE NO. 1-5360

LAWN-A-MAT CHEMICAL & EQUIPMENT CORP.
(Exact name of Registrant, as specified in its charter)

NEW YORK
(State or other jurisdiction
of incorporation or organization)

11-1992285
(I.R.S. Employer
Identification Number)

1[illegible] Jefferson Avenue, Mineola, New York
(Address of principal executive offices)

11501
(Zip Code)

Registrant's telephone number, including area code: (516) 248-0122

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15 (d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.

Yes X No______

10

LAWN-A-MAT CHEMICAL AND EQUIPMENT CORP. AND SUBSIDIARIES

CONSOLIDATED STATEMENT OF INCOME
For the Nine Months Ended September 30,

	1974	1973
Net sales of products	$2,073,448	$1,666,860
Operating revenue	721,644	884,656
Total Sales and Operating Revenue	$2,795,092	$2,551,516
COSTS AND EXPENSES:		
Cost of products sold	$1,812,481	$1,460,378
Operating expenses	261,017	272,477
Selling, general and administrative expenses	655,733	754,354
Interest expense - net (income)	5,997	(8,136)
Total Costs and Expenses	$2,735,228	$2,479,073
Income before taxes	$ 59,864	$ 72,443
Provision for taxes on income	23,200	30,487
Net income	$ 36,664	$ 41,956
Earnings per share	$ .016	$ .019

Earnings per share based on 2,229,232 shares outstanding during entire period.

23

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

LAWN-A-MAT CHEMICAL & EQUIPMENT CORP.
(Registrant)

By: Carl

Carl Krantz, Treasurer

Dated: November 1, 1974

LAWN-A-MAT CHEMICAL AND EQUIPMENT CORP. AND SUBSIDIARIES

CAPITALIZATION AND STOCKHOLDERS' EQUITY
September 30, 1974

DEBT:	
Short-term loans, notes, etc.	$ 37,953
Long-term debt (Less: Portion due within one year - above)	49,009
TOTAL DEBT	$ 86,962
Deferred credits	$ -
Minority interest	-
STOCKHOLDERS' EQUITY	$474,814

SHARES ISSUED OR OUTSTANDING	Shares Issued and Outstanding	Amount
Common stock	2,229,232	$ 22,292
Capital in excess of par value		199,940
Retained Earnings:		
Balance at beginning of current fiscal year	215,919	
Net income	36,664	252,582
TOTAL STOCKHOLDERS' EQUITY		$474,814

NOTES:

1. The report as presented has been prepared in conformity with the same application of accounting principles and procedures, as reflected in the annual report for December 31, 1973 as filed. In the opinion of management all adjustments necessary to a fair statement of the operations for the quarter ended September 30, 1974, are included therein.

2. The Registrant is involved in a cyclical business based upon the grass growing season in the United States, and the bulk of the selling activities occur in the second and third quarter of the calendar year.

3. The decrease in net income for the current period is due to the procedure of replacing equipment at the expiration of the fifth year of dealership at no cost to the respective dealer and at a current expense to the company, and the unusual large interim increase in the cost of chemicals, and freight, which the company was unable to pass on to their distributors and dealers.

PLAINTIFF'S EXHIBIT "30"

Pl #30

UNITED STATES OF AMERICA
SECURITIES AND EXCHANGE COMMISSION

ATTESTATION

I HEREBY ATTEST that attached is a full, true and complete copy of:

Quarterly report on Form 10-Q for the three months ended March 31, 1975 filed with this Commission May 15, 1975 by Lawn-A-Mat Chemical & Equipment Corp., pursuant to the provisions of the Securities Exchange Act of 1934, as amended, (File No. 0-8079). —

on file in this Commission

November 11, 1976
(Date)

Charles A. Moore
CHARLES A. MOORE
RECORDS OFFICER

It is hereby certified that James C. Foster, Director, Office of Reports and Information Services, Securities and Exchange Commission, Washington, D.C., which Commission was created by the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), is official custodian of the books and records of said Commission, and all books and records created or established by the Federal Trade Commission pursuant to the provisions of the Securities Act of 1933 and transferred to this Commission in accordance with Section 210 of the Securities Exchange Act of 1934, and was such official custodian at the time of executing the above attestation, and that he, and Charles A. Moore, Records Officer, and John H. Medlock, Chief, Administrative Proceedings Section, or any one of them, are authorized to execute the above attestation.

By the Commission

Secretary
George A. Fitzsimmons

SEC 334 (

A-781

0-8079-2

SECURITIES AND EXCHANGE COMMISSION

Orig
RECD S.E.C.
MAY 15 1975

WASHINGTON, D.C. 20549

FORM 10-Q

QUARTERLY REPORT UNDER SECTION 13 OR 15 (d)
OF THE SECURITIES EXCHANGE ACT OF 1934

FOR THE THREE MONTHS ENDED MARCH 31, 1975 COMMISSION FILE NO. 1-5360

LAWN-A-MAT CHEMICAL & EQUIPMENT CORP.
(Exact name of Registrant, as specified in its charter)

NEW YORK	11-1992285
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification Number)
153 Jefferson Avenue, Mineola, New York	11501
(Address of principal executive offices)	(Zip Code)

Registrant's telephone number, including area code: (516) 248-0122

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15 (d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.

Yes __X__ No ______

wm
16

LAWN-A-MAT CHEMICAL & EQUIPMENT CORP. AND SUBSIDIARIES

CONSOLIDATED STATEMENT OF INCOME
For the Three Months Ended March 31,

	1975	1974
Net sales of products	$469,484	$ 590,649
Operating revenue	114,833	96,327
Total Sales and Operating Revenue	$584,317	$ 686,976
COSTS AND EXPENSES:		
Costs of products sold, operating and selling, general and administrative expenses	$655,322	$ 908,354
Interest expense - net (income)	6,416	3,273
Total Costs and Expenses	$661,738	$ 911,627
(Loss) before taxes	$(77,421)	$(224,651)
Provision for taxes on income	-	(62,800)
Net loss	$(77,421)	$(161,851)
Loss per share	$ (.035)	$ (.07)

Earnings per share based on 2,229,232 shares outstanding during entire period.

LAWN-A-MAT CHEMICAL AND EQUIPMENT CORP. AND SUBSIDIARIES

CAPITALIZATION AND STOCKHOLDERS' EQUITY
March 31, 1975

DEBT:		
Short-term loans, notes, etc		$324,190
Long-term debt (Less: Portion due within one year - above)		25,731
TOTAL DEBT		$349,921
Deferred credits		$ 67,500
Minority interest		-
STOCKHOLDERS' EQUITY		$272,361
SHARES ISSUED OR OUTSTANDING	Shares Issued and Outstanding	Amount
Common stock	2,229,232	$ 22,292
Capital in excess of par value		200,940
Retained Earnings:		
Balance at beginning of current fiscal year	126,550	
Net loss	(77,421)	49,129
TOTAL STOCKHOLDERS' EQUITY		$272,361

NOTES:

1. The report as presented has been prepared in conformity with the same application of accounting principles and procedures, as reflected in the annual report for December 31, 1974 as filed. In the opinion of management all adjustments necessary to a fair statement of the operations for the quarter ended March 31, 1975 are included therein.

2. The Registrant is involved in a cyclical business based upon the grass growing season in the United States, and the bulk of the selling activities occur in the second and third quarter of the calendar year

3. The decrease in costs and expenses for the current three months as compared to the prior period was principally attributed to:

    1. Change in accounting method of handling replecement revenue equipment as described in Note 1j to the 1974 Form 10K financial statements.

    2. Reduction in cost of products sold due to a decrease in sales.

4. Options to acquire 100,000 shares of the company's common stock at a price of $.25 per share remain outstanding. See Note 10 to the 1974 Form 10K financial statements.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

LAWN-A-MAT CHEMICAL & EQUIPMENT CORP.
(Registrant)

By: Fernando Erazo
Fernando Erazo, President

Dated: May 1975

PLAINTIFF'S EXHIBIT "31"

Pl#31

UNITED STATES OF AMERICA
SECURITIES AND EXCHANGE COMMISSION

ATTESTATION

I HEREBY ATTEST that attached is a full, true and complete copy of:

Quarterly report on Form 10-Q for the six months ended June 30, 1975 filed with this Commission August 15, 1975 by Lawn-A-Mat Chemical & Equipment Corp., pursuant to the provisions of the Securities Exchange Act of 1934, as amended, (File No. 0-8079).

on file in this Commission

November 11, 1976
(Date)

Charles A. Moore
CHARLES A. MOORE
RECORDS OFFICER

It is hereby certified that James C. Foster, Director, Office of Reports and Information Services, Securities and Exchange Commission, Washington, D.C., which Commission was created by the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), is official custodian of the books and records of said Commission, and all books and records created or established by the Federal Trade Commission pursuant to the provisions of the Securities Act of 1933 and transferred to this Commission in accordance with Section 210 of the Securities Exchange Act of 1934, and was such official custodian at the time of executing the above attestation, and that he, and Charles A. Moore, Records Officer, and John H. Medlock, Chief, Administrative Proceedings Section, or any one of them, are authorized to execute the above attestation.

By the Commission

Secretary
George A. Fitzsimmons

~~1-5360~~
0-8079-2
REC'D - S.E.C.
AUG 15 1975
Orig

SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D.C. 20549

FORM 10-Q

QUARTERLY REPORT UNDER SECTION 13 OR 15 (d)
OF THE SECURITIES EXCHANGE ACT OF 1934

FOR THE SIX MONTHS ENDED JUNE 30, 1975

COMMISSION FILE NO. 1-5360

LAWN-A-MAT CHEMICAL & EQUIPMENT CORP.
(Exact name of Registrant, as specified in its charter)

NEW YORK	11-1992285
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification Number)
153 Jefferson Avenue, Mineola, New York	11501
(Address of principal executive offices)	(Zip Code)

Registrant's telephone number, including area code: (516) 248-0122

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15 (d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.

Yes __X__ No ____

20

A-787

LAWN-A-MAT CHEMICAL AND EQUIPMENT CORP. AND SUBSIDIARIES

CAPITALIZATION AND STOCKHOLDERS' EQUITY
June 30, 1975

DEBT:	
Short-term loans, notes, etc.	$ 29,174
Long-term debt (Less: Portion due within one year - above)	16,963
TOTAL DEBT	$ 46,137
Deferred credits	$ 67,500
Minority interest	-
STOCKHOLDERS' EQUITY	$322,197

SHARES ISSUED OR OUTSTANDING	Shares Issued and Outstanding	Amount
Common stock	2,229,232	$ 22,292
Capital in excess of par value		200,940
Retained Earnings:		
Balance at beginning of current fiscal year	126,550	
Net loss	(27,585)	98,965
TOTAL STOCKHOLDERS' EQUITY		$322,197

LAWN-A-MAT CHEMICAL & EQUIPMENT CORP. AND SUBSIDIARIES

CONSOLIDATED STATEMENT OF INCOME
For the Six Months Ended June 30,

	1975	1974
Net sales of products	$ 856,797	$1,472,758
Operating revenue	341,226	469,797
Total Sales and Operating Revenue	$1,198,023	$1,942,555
COSTS AND EXPENSES:		
Costs of products sold, operating and selling, general and administrative expenses	$1,2[illegible],[illegible]7	$1,929,527
Interest expense - net	7,061	5,691
Total Costs and Expenses	$1,225,608	$1,935,218
(Loss) before taxes	$ (27,585)	$ 7,337
Provision for taxes on income	-	1,500
Net (loss) profit	$ (27,585)	$ 5,800
(Loss) profit per share	$ (.012)	$ .025

(Loss) earnings per share based on 2,229,232 shares outstanding during entire period.

LAWN-A-MAT CHEMICAL AND EQUIPMENT CORP. AND SUBSIDIARIES

NOTES TO FINANCIAL STATEMENTS

1. The report as presented has been prepared in conformity with the same application of accounting principles and procedures, as reflected in the annual report for December 31, 1974 as filed. In the opinion of management all adjustments necessary to a fair statement of the operations for the six months ended June 30, 1975 are included therein.

2. The Registrant is involved in a cyclical business based upon the grass growing season in the United States, and the bulk of the revenues is realized in the second and third quarter of the calendar year.

3. The decrease in sales, operating revenues, costs and expenses for the current six months as compared to the prior period was principally attributed to:

   1. Change in accounting method of handling replacement revenue equipment as described in Note 1j to the 1974 Form 10K financial statements.

   2. The decrease in product sales was due to:

      a. decrease in the selling price of our products

      b. approximately $250,000 of sales which normally would occur in this period was realized in the fourth quarter of 1974

      c. dealers obtained their supplies from other sources due to competitive conditions

   3. The decrease in operating revenues was due in part to a lack of sales of new dealerships.

   4. The reduction in costs and expenses was due to the decrease in sales and revenues.

4. Options to acquire 100,000 shares of the company's common stock at a price of $.25 per share remain outstanding. See Note 10 to the 1974 Form 10K financial statements.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

LAWN-A-MAT CHEMICAL & EQUIPMENT CORP.
(Registrant)

By: Stanley B. Essner
Stanley Essner, Financial Vice-President

Dated: 12 August, 1975

PLAINTIFF'S EXHIBIT "32"

Pl #32

UNITED STATES OF AMERICA
SECURITIES AND EXCHANGE COMMISSION

ATTESTATION

I HEREBY ATTEST that attached is a full, true and complete copy of:

Current report on Form 8-K for the month of June, 1973 filed with this Commission July 11, 1973 by Lawn-A-Mat Chemical and Equipment Corp., pursuant to the provisions of the Securities Exchange Act of 1934, as amended, (File No. 0-8079).

on file in this Commission

November 11, 1976
(Date)

Charles A. Moore
CHARLES A. MOORE
RECORDS OFFICER

It is hereby certified that James C. Foster, Director, Office of Reports and Information Services, Securities and Exchange Commission, Washington, D.C., which Commission was created by the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), is official custodian of the books and records of said Commission, and all books and records created or established by the Federal Trade Commission pursuant to the provisions of the Securities Act of 1933 and transferred to this Commission in accordance with Section 210 of the Securities Exchange Act of 1934, and was such official custodian at the time of executing the above attestation, and that he, and Charles A. Moore, Records Officer, and John H. Medlock, Chief, Administrative Proceedings Section, or any one of them, are authorized to execute the above attestation.

By the Commission

Secretary
George A. Fitzsimmons

EC 384 (6-76)

1-5360-2
Orig

SECURITIES AND EXCHANGE COMMISSION

Washington, D. C.

RECD S.E.C.
JUL 11 1973

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of the
Securities Exchange Act of 1934

For the Month of June, 1973

LAWN-A-MAT CHEMICAL AND EQUIPMENT CORP.
(Exact name of registrant as specified in Charter)

1 Old Country Road, Carle Place, New York 11514
(Address of registrant's principal executive offices)

Commission File 1-5360

ITEM II. ACQUISITION OR DISPOSITION OF AS[illegible]S.

(a) On June 26, 1973, the Company en[illegible] into an agreement with Republic Corporation, Bernard Discount, United Stellar Industries Corp., Coinmeco, Inc., and Sarlight Tool and Manufacturing Corporation. Under the terms of this agreement, the Company has been granted an option to acquire certain tools and equipment leased by Republic from Carolina Fleets, Inc. as at April 22, 1970. Under the terms of the aforesaid lease, Republic paid a monthly rental of $13,237.00. Said lease is for a term of ten years. A second lease made by Republic Corporation with National Equipment Rental, Ltd. also with respect to certain equipment, is included in the option. Under the terms of the lease with National, the monthly rental is $1,633.55 until December 1973, and thereafter the rent reduces to $874.42 for an additional four years. Thereafter, the monthly rental reduces to $588.17.

At the inception of the lease with Carolina Fleets, the equipment under the lease was valued at approximately $775,000.00. Thirty-nine months later, the estimated market value of the equipment pursuant to the aforesaid agreement was deemed 67.775% of the original evaluation.

It should be noted that collateral agreements have been entered into by Lawn-A-Mat to acquire the realty and buildings where the present equipment is located. This option shall expire at 5:00 o'clock on October 31, 1974, but may be terminated by the Company at its option at an earlier date. If the option is exercised, the Company will pay $300,000 for the aforesaid equipment.

The agreement further provides for the sale by the Company to Republic of 50,000 shares of its $.01 par value common stock at a price of $1.00 per share. The Company has received $50,000 from Republic, and the stock has been issued to them. The Company has guaranteed that said stock will achieve a normal market value of $4.00 per share two years from the execution of the contract. In the event that the market value of said stock shall be less than $4.00 per share at said time, the Company will issue to Republic additional shares of its $.01 par value common stock, so that the total number of shares then owned by Republic will have a market value of $4.00. In no event, shall additional stock to be issued by Lawn-A-Mat exceed 150,000 shares. The 150,000 shares of stock has been presently placed in escrow as assurance of the performance of the aforesaid agreement by Lawn-A-Mat.

The Company has granted Republic certain rights with respect to the registration and filing of the shares acquired by Republic, including the right to have the stock acquired by Republic registered with the Securities and Exchange Commission, at the sole cost and expense of Republic. Should the Company arrange for the sale of its securities by a registration with the Securities and Exchange Commission, then it is obligated to include in such registration, the stock of Republic acquired pursuant to the aforesaid agreement, but the said Republic will pay such additional costs as may be incurred by reason of the inclusion of their stock in any registration.

Collateral agreements heretofore executed with others will now permit the acquisition by the Company, when all agreements are finalized, of all of the issued and outstanding shares of United Stellar Industries Corp., Coinmeco, Inc., Starlight Tool and Manufacturing Corporation, and the real estate and buildings presently occupied by United Stellar Industries Corp. and Starlight Tool and Manufacturing Corporation in Plainview, New York, and Joplin, Missouri respectively.

ITEM VII. INCREASE IN AMOUNT OF SECURITIES OUTSTANDING.

(a) The Company has only one class of $.01 par value common stock. Authorized shares are 5,000,000 shares. The amount presently outstanding as at March 31, 1973 is 2,009,232.

(b) See Item II.

(c) Not applicable.

(d) The monies received will be used as part of the general working capital of the Company. The monies are not earmarked for any specific purpose.

(e) Said securities have not been registered under the Securities Act of 1933. Recipients have executed a document confirming that they are acquiring said stock for investment and not with a view towards distribution. An exemption is claimed pursuant to Sec. 4(2) of the Securities Act of 1933, as amended.

(f) Not applicable.

A-796

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned, hereunto duly authorized.

LAWN-A-MAT CHEMICAL AND EQUIPMENT CORP.
Registrant

By:
Daniel Dorfman, President

July 9, 1973
Carle Place, New York

PLAINTIFF'S EXHIBIT "33"

Pl#33

5

A-797

UNITED STATES OF AMERICA
SECURITIES AND EXCHANGE COMMISSION

ATTESTATION

I HEREBY ATTEST that attached is a full, true and complete copy of:

Current report on Form 8-K for the month of July, 1974 filed with this Commission August 1, 1974 by Lawn-A-Mat Chemical & Equipment Corp., pursuant to the provisions of the Securities Exchange Act of 1934, as amended, (File No. 0-8079).

on file in this Commission.

November 11, 1976
(Date)

Charles A. Moore
CHARLES A. MOORE
RECORDS OFFICER

It is hereby certified that James C. Foster, Director, Office of Reports and Information Services, Securities and Exchange Commission, Washington, D.C., which Commission was created by the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), is official custodian of the books and records of said Commission, and all books and records created or established by the Federal Trade Commission pursuant to the provisions of the Securities Act of 1933 and transferred to this Commission in accordance with Section 210 of the Securities Exchange Act of 1934, and was such official custodian at the time of executing the above attestation, and that he, and Charles A. Moore, Records Officer, and John H. Medlock, Chief, Administrative Proceedings Section, or any one of them, are authorized to execute the above attestation.

By the Commission

Secretary
George A. Fitzsimmons

SEC 334 (

1-5360-2

REC'D - S.E.C.

AUG 1 1974

orig

SECURITIES AND EXCHANGE COMMISSION

WASHINGTON, D. C. 20549

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of the
Securities Exchange Act of 1934

For the Month of July, 1974

LAWN-A-MAT CHEMICAL & EQUIPMENT CORP.
(Exact name of Registrant as specified in Charter)

153 Jefferson Avenue, Mineola New York 11501
(Address of principal executive offices)

COMMISSION FILE NO. 1-5360

16

ITEM 3. LEGAL PROCEEDINGS

An action has been instituted in the Supreme Court Nassau County by the Registrant against Bernard Discount, Gertrude Discount, United Stellar Industries Corp., Sheriden Realty Corp., Starlight Tool & Manufacturing Corporation, Millcount Realty Corp., and Coinmeco, Inc. The action was commenced on July 26, 1974.

The Registrant seeks damages arising out of a breach of various agreements heretofore entered into between the Registrant and the aforesaid defendant's on or about March 12, 1973, which agreements are more fully described in the Form 10-K filed by the Registrant for the fiscal period ending December 31, 1973. Damages are sought in the amount of $2,500,000.00.

The case is in its preliminary stages and no answer has as yet been filed. Counsel for Registrant is unable to express any opinion with respect to the merits of the matter.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

LAWN-A-MAT CHEMICAL & EQUIPMENT CORP.
(Registrant)

By: Carl Krantz, Secretary-Treasurer

Dated: July 30, 1974

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

- -x
:
SECURITIES AND EXCHANGE COMMISSION,
:
Plaintiff, : 76 Civ. 907
:
-against- : OPINION
:
E.L. AARON & CO., INC.
LAWN-A-MAT CHEMICAL & EQUIPMENT CORP. :
EDWARD L. AARON
PETER E. AARON :
NORMAN LAWRENCE SCHREIBER
DONALD DARWIN JACOBSON :
DANIEL DORFMAN
FERNANDO ERAZO, :

Defendants. :

- -x

APPEARANCES:

WILLIAM D. MORAN
Regional Administrator
Attorney for Plaintiff
SECURITIES AND EXCHANGE COMMISSION
26 Federal Plaza
New York, New York 10007

DONALD N. MALAWSKY, ESQ.
JEFFREY H. TUCKER, ESQ.
BARRY J. MANDEL, ESQ.
GEORGE A. SCHIEREN, ESQ.
JONATHAN O. LEE, ESQ.

CHARLES J. HECHT, ESQ.
Attorney for Peter Aaron
Suite 1760
60 East 42nd Street
New York, New York 10017

GAGLIARDI, D.J.

The complaint in this action filed on February 26, 1976 by plaintiff Securities and Exchange Commission ("Commission") charged eight defendants with violating and aiding and abetting violations of the anti-fraud provisions of the Securities Act of 1933 ("Securities Act"), Section 17(a), 15 U.S.C. §77q(a),[1] and the Securities Exchange Act of 1934 ("Exchange Act"), Section 10(b), 15 U.S.C. §78j(b)[2] and Rule 10b-5 thereunder, 17 C.F.R. 240.10b-5[3] in connection with the offer and sale of the common stock of Lawn-A-Mat Chemical & Equipment Corp. ("LAM"). Four of these defendants, including Peter Aaron, were also charged with violating and aiding and abetting violations of the registration provisions of the Securities Act, Sections 5(a) and 5(c), 15 U.S.C. §§77e(a)[4] and 77e(c),[5] in connection with the offer and sale of LAM stock. Thereafter, all of the defendants in this action except Peter Aaron consented to the entry of final judgments of permanent injunction.

The court conducted a three day evidentiary hearing on the Commission's motion for entry of a preliminary injunction and final judgment of permanent injunction[6] enjoining Peter Aaron from violating the registration and anti-fraud provisions of the securities laws. For the reasons set forth below, the court finds that Peter Aaron has violated both the registration and anti-fraud provisions and grants the Commission's motion for a preliminary and permanent injunction.

The Commission brings this action pursuant to section 21(b) of the Securities Act, 15 U.S.C. §77t(b), and section 21(d) of the Exchange Act, 15 U.S.C. §78u(d) to enjoin these alleged violations. This court has jurisdiction of this action pursuant to Section 22(a) of the Securities Act, 15 U.S.C. §77v(a), and Section 27 of the Exchange Act, 15 U.S.C. §78aa. The defendant has engaged in certain acts and practices within the Southern District of New York constituting, in part, the violations of the securities laws alleged. Such actions were effected by making use of the means and instrumentalities of interstate commerce and of the mails.

The court having considered the pleadings, the testimony of witnesses and the documents in evidence makes the following findings of fact and conclusions of law as required by Rule 52 Fed. R. Civ. P.

Findings of Fact

1. E.L. Aaron & Co., Inc. ("Aaron & Co.") was a New York corporation with its principal offices located in New York, New York. During the period from November 1974 through September 1975 ("the relevant period") Aaron & Co. also operated a branch office in Roslyn Heights, New York. During the relevant period Aaron & Co. was a broker-dealer registered with the Com-

mission and a member of the National Association of Securities Dealers, Inc. ("NASD"). During the relevant period Aaron & Co. had as many as 50 employees including 25 full-time and 15 part-time registered representatives. Aaron & Co. is no longer doing business.

2. Edward Aaron was the president, sole officer and sole stockholder of Aaron & Co. He spent almost all of the business day in the trading room executing orders and trading securities.

3. Defendant Peter Aaron is the son of Edward Aaron. He was employed at Aaron & Co. for a period of 15 years. During the relevant period he was a registered representative, assistant to the president, and the liason between the operations department, the registered representatives and the trading room. He also maintained due diligence files for the securities in which Aaron & Co. made markets. He was not registered with the NASD as a principal of Aaron & Co.

4. Peter Aaron performed additional duties at Aaron & Co. He conducted sales meetings with registered representatives at which sales techniques were discussed, and monitored the trading of representatives advising them of their monthly production figures, informing them of their clients who were late in payment, and ensuring that the representatives did not exceed their individual selling capacities. He also participated

with his father in the hiring of Aaron & Co. employees and performed other duties.

5. In sum, Peter Aaron, along with his father, had supervisory responsibility over Aaron & Co.'s registered representatives and other employees. He and his father only were authorized to sign checks at Aaron & Co. Peter Aaron received a salary, bonuses, expenses and other payments from Aaron & Co. at a level comparable to Edward Aaron. He expected to inherit complete ownership of Aaron & Co. from his father. In sum, Peter Aaron functioned in a managerial and supervisory capacity over all the activities at Aaron & Co. In particular, he supervised the registered representatives and received and answered complaints about their activities.

6. Norman Schreiber ("Schreiber") at all times relevant was associated with Aaron & Co. as a registered representative and was branch manager of Aaron & Co.'s Roslyn Heights office.

7. Donald Jacobson ("Jacobson") at all times relevant was associated with Aaron & Co. as a registered representative working in the Roslyn Heights office.

8. LAM is a New York corporation engaged in the business of selling franchises and products for lawn care and provides combines, trailers and tractors to franchisees for the application of lawn care products, which are also supplied by LAM. At all times relevant

the common stock of LAM was registered with the Commission pursuant to Section 12(g) of the Exchange Act, 15 U.S.C. 781(g), and was traded in the over-the-counter market. LAM filed all required forms with the Commission, such forms and other reports of LAM were maintained in the files of Aaron & Co.

9. Daniel Dorfman at all times relevant was a director and major stockholder of LAM. From October, 1974 through November, 1975 Daniel Dorfman was not involved with the day-to-day operations of LAM.

10. Fernando Erazo ("Erazo"), during all times relevant was a director, chief operating officer and, at various times, president and executive vice president of LAM.

Violations of the Anti-Fraud Provisions
A. False and Misleading Representations

11. During the relevant period Aaron & Co. made a market in the common stock of LAM. LAM furnished to Schreiber and Jacobson copies of its stockholders' list and franchise-dealers' list. Schreiber and Jacobson contacted persons on these lists by phone and by use of the mails to solicit orders for LAM stock.

12. Some of the persons contacted complained or inquired of LAM officers and employees regarding the representations made by Schreiber or Jacobson. Erazo and Milton Kean ("Kean"), attorney for LAM, subsequently re-

quested Schreiber and Jacobson to halt making false and misleading statements in connection with these solicitations.

13. Some of the false or misleading information that Schreiber or Jacobson told prospective purchasers of LAM included the representation that LAM was planning or in the process of manufacturing a new type of small car and a tractor. Investors contacted were told among other things that the car would be manufactured in a venture with a Japanese outfit and the new car would be coming out in six weeks. LAM, however, was not manufacturing a car or tractors and did not plan to do so.[7] Furthermore, both Erazo and Kean informed Schreiber and Jacobson that their statements were false.

14. Schreiber and Jacobson also supplied prospective investors false or misleading information concerning the financial condition of LAM and projected substantial increases in the price of the stock. Their projections of the increasing sales and earnings of LAM had no basis in fact as LAM continued losing money during the relevant period.

B. Peter Aaron's Knowledge and Failure to Act

15. Kean spoke to Peter Aaron by telephone on two occasions during the relevant period, the first in April 1975 and the second subsequent, to inform him that

Schreiber and Jacobson were making false and misleading statements in connection with their campaign of selling LAM stock. Specifically, Kean informed Peter Aaron that Schreiber and Jacobson, without any basis in fact, were informing prospective purchasers of LAM stock that LAM was planning or already manufacturing a car and a tractor. Kean also informed Peter Aaron that Schreiber and Jacobson were making misrepresentations about the financial condition of LAM.

16. Peter Aaron, in addition to being informed by Kean, had reason to know that the statements by Schreiber and Jacobson were false or misleading. As the individual at Aaron & Co. responsible for maintaining the due diligence files which included LAM's files, Peter Aaron was aware that LAM by its reports did not indicate that it was building or planning a car or a tractor and did indicate a deteriorating financial condition.

17. After Kean made these objections to him, Peter Aaron notified Jacobson of Kean's complaint but did nothing to correct or stop the false and misleading misrepresentations which Schreiber and Jacobson then continued to make.

Violations of the Registration Provisions

18. During the relevant period representatives of Aaron & Co., through use of the telephone and the mails, continuously solicited customers for the purchase of LAM

common stock. Peter Aaron knew of this solicitation.

19. During the relevant period representatives of Aaron & Co. solicited the sale of 1,000 shares of LAM common stock from Daniel Dorfman and 20,000 shares of LAM common stock from Fred Dorfman, a Vice President and Director of LAM. This LAM stock which was unregistered was sold pursuant to the exemption from the registration provisions of the Securities Act provided by Rule 144, 17 C.F.R. 230.144.

20. At about the same time Aaron & Co. arranged with J.W. Weller & Co., Inc. ("Weller & Co."), a New Jersey broker-dealer, for Weller & Co. to act as an intermediary in transactions in which Aaron & Co. would purchase LAM stock from its own customers. Peter Aaron participated in those transactions by making the initial contact with Weller & Co. and it was with his approval that the Dorfman transactions were effected. Aaron & Co. arranged the sale of the Dorfman's stock to Weller & Co. and then purchased the same shares from Weller & Co. In each case representatives of Aaron & Co. told the Dorfmans to send their stock to Weller & Co., neither of them previously having done business with nor heard of Weller & Co. In each case Aaron & Co. purchased for its own account the Dorfman's stock through Weller & Co. In the case of Fred Dorfman's stock, Aaron & Co. purchased it in three blocks of 5,000, 5,000 and 10,000 shares from Weller & Co.

21. In sum and effect the Dorfmans sold their stock directly to Aaron & Co. Weller & Co. was a mere intermediary directed by Aaron & Co. for the purposes of these transactions.

22. In each case Aaron & Co. purchased the Dorfman's stock for its principal account. These shares were then sold at a later date to the public from its principal account. In so doing Aaron & Co. was acting as a principal or dealer for its own account and not as an agent or broker for a customer.

23. Counsel for Aaron & Co. never advised Peter Aaron or anyone at Aaron & Co. that the arrangement with Weller & Co. to act as a prearranged intermediary in the sale of the Dorfman's stock was in compliance with §5(a) and (c) of the Securities Act.

Conclusions of Law

Violations of the Anti-Fraud Provisions

Section 17(a) of the Securities Act and Section 10(b) of the Exchange Act and Rule 10b-5 promulgated thereunder, as judicially construed and applied, mandate fair dealing in connection with the offer or sale of any securities. See SEC v. Capital Gains Research, 375 U.S. 180, 201 (1963); SEC v. Galaxy Foods, Inc., 417 F. Supp. 1225, 1244 (E.D.N.Y. 1976).

In this case Aaron & Co., through its registered representatives Schreiber and Jacobson, was continuously during the relevant period soliciting sales of LAM stock. In connection with the solicitation, Schreiber and Jacobson knowingly made false and misleading statements to prospective customers concerning LAM's activity in manufacturing a car and a tractor and concerning LAM's financial condition. Although employees of LAM and their counsel informed Schreiber and Jacobson that their representations were false, and the LAM reports on file at Aaron & Co. indicated that these representations had no basis in fact, Schreiber and Jacobson continued to make them. In sum, Jacobson and Schreiber knowingly and intentionally made false and misleading statements in connection with the offer and sale of the common shares of LAM, clear violations of the anti-fraud provisions of the securities laws. See, e.g., SEC v. Texas Gulf Sulphur Co., 401 F.2d 833 (2d Cir. 1968) (en banc), cert. denied, 394 U.S. 976 (1969); Hanly v. SEC, 415 F.2d 589 (2d Cir. 1969); SEC v. Cooper, 402 F. Supp. 516 (S.D.N.Y. 1975).

Peter Aaron knew of the activities of Schreiber and Jacobson. He was called twice by Milton Kean, counsel for LAM, and told that Schreiber and Jacobson were giving prospective customers false information about LAM's manufacture of a car and a tractor and false information on the financial condition of LAM. Kean had previously called Schreiber and Jacobson directly and told them without effect to cease their activity, Peter Aaron had reason to know, independent of Kean's notification, that what Schreiber and Jacobson were representing was false and misleading. As the individual responsible for the due diligence files, which included up-to-date reports on LAM, Peter Aaron had all of the current information on LAM, none of which indicated the company's activities or projected growth that Schreiber and Jacobson were reporting. Peter Aaron stated to Kean that he would stop the misrepresentations. However, he did nothing to stop the activity and only contacted Jabobson and told him to contact Kean.

Peter Aaron had a managerial and supervisory position at Aaron & Co. While he was neither registered as a principal with the NASD, nor denominated as an officer of Aaron & Co., based upon his involvement with the affairs of the firm, his participation in management decisions, his compensation and his close association with his father, he functioned in a managerial capacity at Aaron & Co. Cf. SEC v. E.J. Albanese Co. Inc., CCH Fed. Sec. L. Rep. ¶95,778 (S.D.N.Y. 1976). In such capacity he was specifically responsible for supervising the registered representatives. In fact, when Kean called Aaron & Co. to complain about Schreiber and Jacobson, he was first connected with Edward Aaron who told him that such complaints should be made to Peter Aaron.

Consequently, Peter Aaron, although never an officer, director or shareholder of Aaron & Co., by virtue of his active participation in the management of the firm and his knowledge both of the firm's solicitation of LAM stock and the false and misleading statements being made by Schreiber and Jacobson in connection with that solicitation, must be held responsible along with Schreiber and Jacobson for the fraudulent representations that were made. *See* *Gross v. SEC*, 418 F.2d 103, 106 (2d Cir. 1969); *SEC v. Galaxy Foods, Inc.*, *supra*, 417 F. Supp. at 1246-47. While Peter Aaron himself did not make any misrepresentations, by failing to stop Schreiber and Jacobson, he wilfully aided and abetted their violations of the anti-fraud provisions of the securities laws.[8] *See* *Gross v. SEC*, *supra*; *SEC v. Galaxy Foods, Inc.*, *supra*; *SEC v. E.J. Albanese & Co., Inc.*, *supra*; *SEC v. Charles A. Morris & Assoc., Inc.*, CCH Sec. L. Rep. ¶93,756 at 93,306 (W.D. Tenn. 1973); *see also* *SEC v. Barraco*, 438 F.2d 97 (10th Cir. 1971).

While negligence alone may suffice as a standard for liability in Commission enforcement proceedings, *SEC v. Universal Major Industries Corp.*, 546 F.2d 1044 (2d Cir. 1976); *SEC v. World Radio Mission, Inc.*, CCH Fed. Sec. L. Rep. ¶95,751 (1st Cir. 1976); *contra* *SEC v. Bauch & Lomb,* Inc., CCH Fed. Sec. L. Rep. ¶95,722 (S.D.N.Y. 1976), appeal docketed, No. 73 Civ. 2458 (2d Cir. Sept. 16, 1976), the fact that Peter Aaron intentionally failed to terminate the false and misleading statements made by Schreiber and Jacobson, knowing them to be fraudulent, is sufficient to establish his scienter under the securities laws. See SEC v. Universal Major Industries, supra at 1046-47; SEC v. Galaxy Foods, Inc., supra, 417 F. Supp. at 1245-46. Therefore, Peter Aaron's conduct under either a negligence or a scienter theory of liability violated and aided and abetted violations of the anti-fraud provisions of the securities laws.

Violations of the Registration Provisions

Section 5 of the Securities Act prohibits the sale of a security by any person unless a registration statement is in effect as to that security or unless there is an exemption from the requirements of the section. In this case 21,000 shares of LAM stock sold by Daniel and Fred Dorfman, officers and directors of LAM, were without registration. Violations of §5(a) and (c) thus follow automatically, unless some exemption from registration is available.

The burden of establishing the availability of an exemption from the requirements of Section 5 is on Peter Aaron, the one claiming the exemption. SEC v. Ralston Purina Co., 346 U.S. 119, 126 (1953); SEC v. Culpepper, 270 F.2d 241, 246 (2d Cir. 1959); SEC v. Galaxy Foods, Inc., supra, 417 F. Supp. at 1242.

Defendant relies on the exemption provided in Rule 144, 17 C.F.R. 230.144, which, in conjunction with §§4 and 2(11) of the Securities Act, 15 U.S.C. §77d and 77(b)(11), permits the public sale of certain unregistered securities, like the 21,000 shares sold by the Dorfmans, if the sale is made in accordance with all the conditions of the Rule. In this case it is undisputed that the only provisions of Rule 144 possibly not complied with were 144(f) and (g).

Rule 144(f) provides:

> (f) Manner of Sale. The securities shall be sold in "brokers' transactions" within the meaning of Section 4(4) of the Act and the person selling the securities shall not (i) solicit or arrange for the solicitation of orders to buy the securities in anticipation of or in connection with such transactions or (ii) make any payment in connection with the offering or sale of the securities to any person other than the broker who executes the order to sell the securities.

Rule 144(g) provides:

> (g) Brokers' Transactions. The term "brokers' transactions" in Section 4(4) of the Act shall for the purposes of this rule be deemed to include transactions by a broker in which such broker --
>
> > (1) does no more than execute the order or orders to sell the securities as agent for the person for whose account the securities are sold; and receives no more than the usual and customary broker's commission;

> (2) neither solicits nor arranges for the solicitation of customers' orders to buy the securities in anticipation of or in connection with the transaction; provided, [certain exceptions not relevant here]. . . .

Aaron & Co., through transactions in LAM stock arranged and approved by Peter Aaron, did not comply with Rule 144(f) and (g) for two reasons. First, Aaron & Co., in arranging for the Dorfmans' sale of LAM stock, acted as a principal for its own account and never as a mere agent for the seller. Employees of Aaron & Co. solicited the Dorfmans' sales and, as a market-maker for LAM stock, purchased the stock for its own account. Accordingly, the sales were not "brokers' transactions" because Aaron & Co. was not acting "as agent" for the Rule 144 sellers as required by Rule 144(f) and (g)(1). Second, Aaron & Co. was soliciting customers' orders to buy LAM securities in connection with the Dorfmans' sales in violation of Rule 144(g)(2).

Aaron & Co. and Peter Aaron cannot avoid these requirements of Rule 144 by arranging for the sales of the Dorfmans' stock through an intermediary. Weller & Co.'s participation in the transaction was a sham to evade the intent of the Rule while feigning technical compliance.[9] If Aaron & Co. had purchased the Dorfmans' stock from Weller & Co. or another broker-dealer in an open market interdealer transaction, Aaron & Co. would not have violated Rule 144. In this case, however, Weller & Co. was not acting "as agents" for the Dorfmans but only as an intermediary-agent for Aaron & Co. who arranged the whole transaction.

Aaron & Co. solicited the sale and arranged the price. Neither Daniel nor Fred Dorfman ever heard of or dealt with Weller & Co. and each was first told by agents of Aaron & Co. that their sale would be through Weller & Co. Aaron & Co. effectively purchased the stock directly from the Dorfmans. This conduct was not in compliance with Rule 144 and as a result defendant has not met his burden of establishing an exemption to Section 5 of the Securities Act. Therefore, defendant in concert with others at Aaron & Co. directly and indirectly violated and aided and abetted violations of §5(a) and (c) of the Securities Act.[10]

Defendant contends, as a defense, relying on Ernst & Ernst v. Hochfelder, 425 U.S. 185, 191-92 n. 7 (1976), that if liability may be found to exist it must be based on scienter rather than negligence. However, Hochfelder only passed upon a private suit for damages in a §10(b) context and not upon Commission injunctive actions under §5. The law of this Circuit is that negligence, and not scienter, is all that is required in a Commission injunction proceeding under §5. SEC v. Universal Major Industries, supra, 546 F.2d at 1046-47. However, even if scienter were required, defendants acted with knowledge or reckless disregard of the illegality of the arrangement with the Dorfmans and Weller & Co. This is sufficient to establish scienter. SEC v. Universal Major Industries Corp., supra at 1047; citing, Lanza v. Drexel & Co., 479 F.2d 1277 (2d Cir. 1973).

Defendant's last defense, that he relied upon the advice of counsel in arranging the Rule 144 transactions, is without basis in the evidence. While good faith reliance on advice of counsel may be a factor to consider in deciding whether to grant injunctive relief, SEC v. Manor Nursing Centers, Inc., supra, 458 F.2d at 1101, SEC v. Senex Corp., 399 F. Supp. 497, 507 (E.D. Kty. 1975), in this case there was no reliance because defendant did not follow the opinion of his counsel. SEC v. Senex Corp., supra; United States v. Hill, 298 F. Supp. 1221, 1235 (D. Conn. 1969).

Counsel for Aaron & Co. only advised that in the sale of Rule 144 stock the seller be referred to several other brokers, and that Aaron & Co. could then buy those shares in an open market transaction. Counsel specifically stated that he never advised Peter Aaron or anyone at Aaron & Co. to have Aaron & Co. arrange for Rule 144 stock to be sold to another broker-dealer with whom Aaron & Co. already had an arrangement to purchase the stock for subsequent sale to its own customers. Peter

Aaron, having not followed the advice of counsel, cannot rely on this defense to his violation of §5(a) and (c) of the Securities Act.

Injunctive Relief

The standard governing the issuance of injunctive relief in a Commission enforcement action is whether there is a reasonable likelihood that the violations will be repeated. SEC v. Culpepper, 270 F.2d 241, 249-50 (2d Cir. 1959), SEC v. Scott, Gorman Municipals, Inc., 407 F. Supp. 1383, 1387 (S.D.N.Y. 1975); SEC v. Raga, CCH Fed. Sec. L. Rep. ¶95,222 (S.D.N.Y. 1974).

In this case, Peter Aaron while not presently in the securities business clearly expressed at trial a strong interest in returning to the securities industry. He is currently working in the related field of commodities trading. Under the circumstances, in this court's view, this indicates a likelihood of Peter Aaron's further violations of these securities laws in the future. In light of the nature and extent of the violations of the antifraud and registration provisions, the defendant's failure to recognize the wrongful nature of his conduct and the likelihood of the defendant repeating his violative conduct, the court is convinced that the public interest requires issuance of the Commission's requested preliminary and permanent injunctions. See SEC v. Universal Major Industries Corp., supra, 546 F.2d at 1048; SEC v.

Management Dynamics, Inc., supra, 515 F.2d at 807; SEC v. Manor Nursing Centers, Inc., supra, 458 F.2d at 1100-02.

Submit judgment on five days' notice.

U.S.D.J.

Dated: New York, New York
May 3, 1977.

FOOTNOTES

1. Section 17(a) provides:

> It shall be unlawful for any person in the offer or sale of any securities by the use of any means or instruments of transporation or communication in interstate commerce or by the use of the mails, directly or indirectly --
>
> (1) to employ any device, scheme, or artifice to defraud, or
>
> (2) to obtain money or property by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, or
>
> (3) to engage in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser.

2. Section 10(b) provides:

> It shall be unlawful for any person, directly or indirectly, by the use of any means or instrumentality of interstate commerce or of the mails, or of any facility of any national securities exchange --
>
> (b) To use or employ, in connection with the purchase or sale of any security registered on a national securities exchange or any security not so registered, any manipulative or deceptive device or contrivance in contravention of such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors.

3. Rule 10b-5 provides:

> Employment of Manipulative and Deceptive Devices
>
> It shall be unlawful for any person, directly or indirectly, by the use of any means or instrumentality of interstate commerce, or of the mails, or of any facility of any national securities exchange,

(1) to employ any device, scheme, or artifice to defraud,

(2) to make any untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading, or

(3) to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person, in connection with the purchase or sale of any security.

4. Section 5(a) provides:

Unless a registration statement is in effect as to a security, it shall be unlawful for any person, directly or indirectly --

(1) to make use of any means or instruments of transportation or communication in interstate commerce or of the mails to sell such security through the use or medium of any prospectus or otherwise; or

(2) to carry or cause to be carried through the mails or in interstate commerce, by any means or instruments of transportation, any such security for the purpose of sale or for delivery after sale.

5. Section 5(c) provides:

It shall be unlawful for any person, directly or indirectly, to make use of any means or instruments of transporation or communication in interstate commerce or of the mails to offer to sell or offer to buy through the use or medium of any prospectus or otherwise any security, unless a registration statement has been filed as to such security, or while the registration statement is the subject of a refusal order or stop order or (prior to the effective date of the registration statement) any public proceeding or examination under section 8.

6. Pursuant to Rule 65(a)(2) Fed. R. Civ. P., the Commission moved at the commencement of the hearing, with the consent of the defendant, for consolidation of their motions for preliminary and permanent injunctions.

7. Only Daniel Dorfman, speaking on his own behalf and not for LAM, ever even mentioned a prospective plan that he and not LAM intended to build a car, and he never spoke in the concrete terms described by Schreiber and Jacobson.

8. Defendant's claim that his liability should be measured solely by the "control person" standard of §20(a) of the Exchange Act is without merit. In Commission enforcement actions, §20(a) was not intended as the sole measure of employer liability. SEC v. Management Dynamics, Inc., 515 F.2d 801, 812 (2d Cir. 1975). Section 20(a) has not preempted or restricted operation of general rules in the securities field. Fey v. Walston & Co., Inc., 493 F.2d 1036, 1052 (7th Cir. 1974).

9. The Commission recognized the illegality of such technical compliance in Securities Act Release No. 5223, CCH Fed. Se. L. Rep. ¶78,487 at 81,061 (January 11, 1972), announcing the official adoption of Rule 144 and interpreting its provisions:

> In view of the objectives and policies underlying the Act [Securities Act of 1933], the rule shall not be available to any individual or entity with respect to any transaction which, although in technical compliance with the provisions of the rule, is part of a plan by such individual or entity to distribute or redistribute securities to the public. In such case, registration is required.

10. This holding is consistent with the Commission's position in its staff interpretative letters clarifying the meaning and application of Rule 144. Carolina Securities Corp., CCH Fed. Sec. L. Rep. ¶80,803 (Oct. 7, 1976) and ¶80,853 (Dec. 8, 1976); Herzog & Co., Inc., CCH Fed. Sec. L. Rep. ¶79,801 (May 15, 1974); Ag-Met Inc., CCH Fed. Sec. L. Rep. ¶79,796 (May 2, 1974).

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION : 76 Civil 907(LPG)

Plaintiff, :

-against- :

E.L. AARON & CO., INC. :
LAWN-A-MAT CHEMICAL & EQUIPMENT CORP. :
EDWARD L. AARON
PETER E. AARON : NOTICE OF SETTLEMENT
NORMAN LAWRENCE SCHREIBER
DONALD DARWIN JACOBSON :
DANIEL DORFMAN
FERNANDO ERAZO :

Defendants. :

SIRS:

PLEASE TAKE NOTICE that the annexed Final Judgment of Permanent Injunction will be presented to the Honorable Lee P. Gagliardi, United States District Judge, for settlement and signature on May 17, 1977 at 10:00 a.m. at the United States Courthouse, Foley Square, New York, New York.

Dated: New York, New York
May 10, 1977

Yours, etc.
William D. Moran
by George A. Schneer
WILLIAM D. MORAN
Regional Administrator
Attorney for Plaintiff
SECURITIES AND EXCHANGE COMMISSION
26 Federal Plaza
New York, New York 10007
Telephone No.: 212-264-8586

To: Bert L. Gusrae, Esq.
Gusrae, Greene & Kaplan
67 Wall Street
New York, New York
Attorney for defendant Peter E. Aaron

U.S. District Court
Filed
May 24, 1977
S.D. of N.Y.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE COMMISSION :

Plaintiff, :

-against- :

E.L. AARON & CO., INC. :
LAWN-A-MAT CHEMICAL & EQUIPMENT CORP. :
EDWARD L. AARON
PETER E. AARON :
NORMAN LAWRENCE SCHREIBER
DONALD DARWIN JACOBSON :
DANIEL DORFMAN
FERNANDO ERAZO :

Defendants. :

76 Civil 907(LPG)

FINAL JUDGMENT OF PERMANENT INJUNCTION OF PETER E. AARON

Microfilm
May 24, 1977

Plaintiff Securities and Exchange Commission having duly commenced this action by filing its Complaint charging defendant Peter E. Aaron with violations of Sections 5(a), 5(c) and 17(a) of the Securities Act of 1933, 15 U.S.C. 77e(a), 77e(c) and 77q(a) and Section 10(b) of the Securities Exchange Act of 1934, 15 U.S.C. 78j(b) and Rule 10b-5 thereunder, 17 C.F.R. 240.10b-5, and defendant Peter E. Aaron having appeared herein and an evidentiary hearing having been held on January 11 through January 14, 1977, and the Court having considered the matter and having rendered a written opinion on May 3, 1977, said opinion containing findings of fact and conclusions of law pursuant to Rule 52 of the Federal Rules of Civil Procedure, it is hereby

ORDERED, ADJUDGED AND DECREED that the defendant Peter E. Aaron, his agents, servants, employees, attorneys and those persons in active concert or participation with him, and each of them, be and hereby are permanently enjoined from, directly or indirectly, in the absence of any applicable statutory exemption:

(1) making use of any means or instruments of transportation or communication in interstate commerce or of the mails to sell the common stock of Lawn-A-Mat Chemical & Equipment Corp., or any other securities, through the use or medium of any prospectus or otherwise, unless and until a registration statement is in effect with the plaintiff Commission as to such securities;

(2) carrying or causing to be carried through the mails or in interstate commerce the common stock of Lawn-A-Mat Chemical & Equipment Corp., or any other securities, for the purpose of sale or for delivery after sale, unless and until a registration statement is in effect with the plaintiff Commission as to such securities; and

(3) making use of any means or instruments of transportation or communication in interstate commerce or of the mails to offer to sell or offer to buy the common stock of Lawn-A-Mat Chemical & Equipment Corp., or any other securities, through the use or medium of any prospectus or otherwise, unless and until a registration statement has been filed with the plaintiff Commission as to such securities.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the defendant Peter E. Aaron, his agents, servants, employees, attorneys and those persons in active concert or participation with him, and each of them, be and hereby are permanently enjoined from, directly or indirectly, by the use of any means or instrumentality of transportation or communication in interstate commerce or of the mails, in connection with the offer for sale, sale, offer to purchase, or purchase of the common stock of Lawn-A-Mat

Chemical & Equipment Corp., or any other securities:

(1) employing any device, scheme or artifice to defraud;

(2) obtaining money or property by means of or otherwise making any untrue statement of a material fact or omitting to state a material fact necessary, in order to make the statements made in light of the circumstances under which they were made, not misleading; or

(3) engaging in any act, transaction, practice or course of business which operates or would operate as a fraud or deceit upon any person.

IT IS FURTHER ORDERED that this Court shall retain jurisdiction of this matter for all purposes.

Dated: New York, New York
May 19, 1977

S/ Lee P. Gagliardi
UNITED STATES DISTRICT JUDGE

JUDGMENT ENTERED: 5/24/77

S/ Raymond F. Burghardt
CLERK

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
---x

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

76 CIV 907 (LPG)

- against -

NOTICE OF APPEAL

E. L. AARON & CO., INC., et al,

Defendants.

---x

Notice is hereby given that PETER E. AARON, a named Defendant in the above captioned action, hereby appeals to the United States Court of Appeals for the Second Circuit from the Final Judgment of Permanent Injunction of PETER E. AARON, entered in this action on May 24, 1977.

Dated: New York, New York
June 1, 1977

GUSRAE, GREENE & KAPLAN

By ____________________
(A Member of the Firm)
Attorneys for Defendant
PETER E. AARON
67 Wall Street
New York, New York 10005
(212) 269-1400

STATE OF NEW YORK)
COUNTY OF NEW YORK) ss .

ROBERT LA GRASSA, being duly sworn, deposes and says that deponent is not a party to the action, is over 18 years of age and resides at 62-20 60' RD MASPETH, N.Y.

That on the 21 day of FEBRUARY, 1978, deponent personally served the within JOINT APPENDIX VOLUME II OF II upon the attorneys designated below who represent the indicated parties in this action and at the addresses below stated which are those that have been designated by said attorneys for that purpose.

~~By leaving ______ true copies of same with a duly authorized person at their designated office.~~

By depositing 1 true cop~~ies~~ of same enclosed in a postpaid properly addressed wrapper, in the post office or official depository under the exclusive care and custody of the United States post office department within the State of New York.

Names of attorneys served, together with the names of the clients represented and the attorneys' designated addresses.

John Lowy
Harvey L. Pitt, General Counsel
Paul Gonson, Associate General Counsel
Jacob H. Stillman, Principal Assistant General Counsel
Glynn L. Mays, Angela M. Desmond, Counsel for Plaintiff-Appellee
Securities and Exchange Commission, Washington, D.C. 20549

Robert La Grassa

Sworn to before me this
21st day of February, 1978

Michael DeSantis

MICHAEL DeSANTIS
Notary Public, State of New York
No. 03-0930908
Qualified in Queens County
Commission Expires March 30, 1979